

**DECISIONS**  
**OF THE**  
**RAILROAD COMMISSION**  
**OF THE**  
**STATE OF CALIFORNIA**

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**VOLUME XIV**

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## COMMISSIONERS

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EDWIN O. EDGERTON

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## EXAMINERS

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MYRON WESTOVER

CHARLES R. DETRICK,

SECRETARY

Office of Commission

833 MARKET STREET

SAN FRANCISCO

# CALIFORNIA RAILROAD COMMISSION DECISIONS.

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## DECISION No. 4611.

IN THE MATTER OF THE APPLICATION OF SANTA MONICA BAY HOME TELEPHONE COMPANY FOR AN ORDER AUTHORIZING SAID CORPORATION TO PURCHASE FIFTY-TWO SHARES OF THE CAPITAL STOCK OF THE HOME TELEPHONE AND TELEGRAPH COMPANY OF SANTA MONICA AND OCEAN PARK.

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Application No. 3061.

*Decided September 4, 1917.*

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Petition of Santa Monica Bay Company to purchase 52 shares of stock of the Santa Monica Company granted, the purchase price of such stock to come from the surplus of the purchasing company and the stock canceled.

*L. C. Torrance*, for Applicant.

BY THE COMMISSION.

### OPINION.

Examiner Encell held a hearing on the above-entitled application at Santa Monica on August 14, 1917.

Santa Monica Bay Home Telephone Company asks permission to purchase at \$4.00 per share, fifty-two shares (par value \$100.00 per share) of stock of the Home Telephone and Telegraph Company of Santa Monica and Ocean Park, organized in 1904.

In 1907 an agreement was entered into under the terms of which Santa Monica Bay Home Telephone Company issued one share of its preferred stock in exchange for two shares of the stock of the Home Telephone and Telegraph Company of Santa Monica and Ocean Park. All but fifty-two shares of the stock of the latter company have been acquired by the former under this agreement. The stock thus acquired has been canceled. Recently the applicant in this proceeding offered to purchase the remaining fifty-two shares of stock at \$4.00 per share. This offer has been accepted by the holders of the stock.

The testimony shows that the purchase price of the stock is based on the present market price of the preferred stock of Santa Monica Bay Home Telephone Company. Applicant proposes to draw upon its surplus earnings for the funds necessary to purchase the stock and intends to cancel the fifty-two shares of stock after it has been acquired.

**ORDER.**

Santa Monica Bay Home Telephone Company having applied to the Railroad Commission for authority to purchase, at \$4.00 per share, fifty-two shares of the capital stock of the Home Telephone and Telegraph Company of Santa Monica and Ocean Park, and a hearing having been held and the Railroad Commission being of the opinion that this application should be granted,

*It is hereby ordered* that Santa Monica Bay Home Telephone Company be and it is hereby granted authority to purchase on or before November 15, 1917, at \$4.00 per share fifty-two shares of the capital stock of the Home Telephone and Telegraph Company of Santa Monica and Ocean Park, said purchase price to be paid from funds obtained from the surplus earnings of Santa Monica Bay Home Telephone Company.

The authority hereby granted to purchase said fifty-two shares of stock is given upon the following conditions and not otherwise:

1. The price at which the stock of the Home Telephone and Telegraph Company of Santa Monica and Ocean Park may be acquired by Santa Monica Bay Home Telephone Company shall not be binding upon the Railroad Commission or any other public body as the value of said stock for rate fixing or any other purposes.

2. Within ten days after the acquisition of the stock by Santa Monica Bay Home Telephone Company, it shall file with the commission a statement showing that it has acquired the stock, the price paid therefor and the cancellation thereof.

Dated at San Francisco, California, this fourth day of September, 1917.

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DECISION No. 4612.

IN THE MATTER OF THE APPLICATION OF SPRING VALLEY WATER COMPANY FOR AUTHORIZATION TO ISSUE PROMISSORY NOTES AND PLEDGE BONDS TO SECURE THE SAME.

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Application No. 3088.

*Decided August 4, 1917.*

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BY THE COMMISSION.

**FIRST SUPPLEMENTAL ORDER.**

Whereas the Railroad Commission by its order in Decision No. 4560, dated August 21, 1917, authorized Spring Valley Water Company to issue and pledge \$4,100,000.00 of its general mortgage 4 per cent bonds to secure the payment of \$3,500,000.00 of short term notes; and

Whereas applicant now reports that it will be necessary for it to execute a trust agreement under which \$3,515,000.00 of said bonds are to be pledged to secure the payment of \$3,000,000.00 of said notes, and asks authority to execute a trust agreement in substantially the same form as the trust agreement filed with the Railroad Commission on August 31, 1917, said trust agreement for purposes of identification having been marked applicant's Exhibit No. 2; and good cause appearing,

*It is hereby ordered* that Spring Valley Water Company be and it is hereby granted authority to execute a trust agreement in substantially the same form as the trust agreement filed with the Railroad Commission on August 31, 1917, and marked applicant's Exhibit No. 2.

The approval herein given of said trust agreement is for the purpose of this proceeding only and an approval in so far as this commission has jurisdiction under the terms of the Public Utilities Act, and is not intended as an approval of said trust agreement as to such other legal requirements to which said trust agreement may be subject.

Dated at San Francisco, California, this fourth day of September, 1917.

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Decisions Nos. 4613, 4614, 4615 and 4616, grade crossings; not printed. See end of volume.

DECISION No. 4617.

IN THE MATTER OF THE APPLICATION OF H. E. WOOLNER, DOING BUSINESS UNDER THE NAME AND STYLE OF SACRAMENTO VALLEY WAREHOUSE COMPANY, TO INCREASE STORAGE RATES AT TARKE STATION, SUTTER COUNTY.

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Application No. 3069.

*Decided September 5, 1917.*

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Upon a showing that present rates are noncompensatory, applicant is authorized to put into effect the following schedule of rates as soon as filed with the commission: Storage, one month, 50 cents per ton; two months, 70 cents; three months or season, 80 cents, with additional charges for loading and weighing. Resacking to be charged for at actual cost of labor and materials.

*H. E. Woolner*, for Applicant.

BY THE COMMISSION.

OPINION.

This is an application by H. E. Woolner, doing business under the name and style of Sacramento Valley Warehouse Company, for authority to increase storage rates at Tarke Station in Sutter County, as hereinafter more fully set forth. A public hearing upon the application was held at Colusa on August 3, 1917, by Examiner Westover, and the matter is now ready for decision.

The warehouse property is located on the Marysville branch of the Northern Electric Railway, about twelve miles east of Colusa, in territory more or less competitive with both rail and river points. To meet this competition the Northern Electric Railway Company, owning a one-eighth interest in Producers Warehouse Company, a copartnership owning the warehouse property, has from time to time published in its tariff a provision under which 25 cents per ton of the warehouse charges have been absorbed, applicable to grain on which carrier received a line haul to specified points. The testimony shows that this absorption provision will not be extended by the carrier for the present year.

Applicant's storage facilities consist of a galvanized iron structure 50 by 400 feet, pine frame studding and wood floor, having a capacity of 5,000 tons. Doors and platforms are well located and sufficient in number to prevent congestion. Recent overhauling of scale house and equipment will increase adequacy of service.

Applicant has leased the warehouse and equipment for five years, from June 1, 1917, at a rental of \$68.00 per month plus insurance, taxes and repairs. The rental is based upon a valuation of \$10,500.00 for the property.

Applicant never operated the property prior to June 1, 1917, so he could not furnish exact data bearing upon operating costs; but only general estimates based upon his experience as a warehouseman at points in southern California. However, annual reports filed with the commission by applicant's predecessor, A. B. Jackson, former manager of Producers Warehouse Company, show the following operating results for the years 1913 to 1916, inclusive, viz:

	Operating revenue	Operating expense	Net operating revenue
1913 -----	\$655 57	\$372 56	\$283 01
1914 -----	1,832 59	1,167 82	664 77
1915 -----	3,202 56	1,919 65	1,282 91
1916 -----	4,365 64	2,424 93	1,940 71
Totals -----	\$10,056 36	\$5,884 96	\$4,171 40
Average -----	2,514 09	1,471 24	1,042 85

Grain, beans and rice are the principal commodities stored at this warehouse. The rates filed with the Railroad Commission by applicant's predecessor, and now in effect, are as follows:

Storage per season-----	65 cents per ton
Loading (reserved) -----	15 cents per ton
Weighing out (reserved) -----	15 cents per ton
Passing through warehouse direct from team to car-----	25 cents per ton

Applicant asks that these rates be increased and adjusted to the following:

Storage first month-----	65 cents per ton
Storage second month-----Additional,	10 cents per ton
Storage third month-----Additional,	10 cents per ton
Maximum for season—June 1 to May 31 following-----	\$5 cents per ton
Loading from warehouse onto cars of 25 tons or less capacity..	15 cents per ton
Loading onto cars of over 25 tons capacity-----	25 cents per ton
Weighing or loading onto wagons-----	15 cents per ton
Weighing over wagon scale and loading into cars-----	40 cents per ton
Weighing over platform scale and loading into cars-----	50 cents per ton

Since the filing of application he has requested a rate of 50 cents per ton for weighing over wagon scale and loading into cars, after depositing in warehouse while awaiting cars.

The proposed division of the season rate into three parts is designed by applicant to clear his warehouse of grain within three months as nearly as possible, so as to accommodate the bean crop, which usually begins to arrive in September. The revenue to be expected from bean storage following the storage of grain is problematical, but it will apparently be relatively small. Applicant operated a bean cleaner in this warehouse last season. About 60,000 bags were loaded, about a third of which were cleaned and a small part stored.

As will be seen, this application contemplates a maximum increase of 20 cents per ton per annum for storage, and an increase of 10 cents per ton for the service of loading into cars when the weight loaded is in excess of 25 tons per car.

Applicant's request for authority to increase rates is based largely upon the contention that the cost of labor has advanced from 20 per cent to 33½ per cent, and even higher in some cases within the last twelve months, also that all materials and supplies necessary in the operation of a warehouse have likewise increased 10 per cent or 15 per cent. Truckers and handlers paid \$2.50 per day during previous seasons now receive \$3.00 per day plus board and lodging; pilers formerly paid \$3.00 or \$3.50 per day now demand \$4.00 per day with board and lodging.

To insure sufficient labor to give first-class service, applicant has found it necessary to install a boarding camp and cook, an additional item of expense, on which he could not furnish definite figures. Increased cost of labor estimated at 25 per cent on average of \$1,106.00 per year for the last four years, as shown by the annual reports, would increase operating expenses \$276.50. Applied to \$1,651.53, labor cost for 1916, it would increase operating expenses \$412.90. The report for 1916 shows that taxes, insurance and repairs are included in operating expenses, with \$1,651.53 for labor and \$300.00 for management. Therefore, the evidently not unreasonable rental now paid, in lieu of

manager's salary paid by the owners when they operated the business, would increase operating expenses an additional \$516.00 over those reported for 1916. The increases in the schedule of rates authorized by the order, which rates vary somewhat from the schedule proposed by applicant, are justified by these additional expenses and are designed to meet them.

No one appeared at the hearing to protest, although personal notice was mailed to each of applicant's patrons calling attention to the proposed increases.

#### ORDER.

II. E. Woolner, doing business under the name and style of Sacramento Valley Warehouse Company, having applied to this commission for authority to increase and adjust warehouse rates in force at Tarke Station, and a public hearing having been held thereon, and the matter being now ready for decision, it is hereby found that the rates at present charged by applicant are nonecompensatory and unreasonable in so far as they differ from the rates set forth in the order, and the rates set forth in the order are hereby found to be just and reasonable rates. Basing its conclusions upon said findings, and upon the findings contained in the opinion preceding this order,

*It is hereby ordered* that applicant herein be and he is hereby authorized to publish and file with the Railroad Commission, and immediately thereafter to collect, the following schedule of rates at the warehouse located at Tarke Station, Sutter County, California, for receiving, weighing, storing and loading grain, rice and beans, viz:

<i>Storage.</i>	
Storage—one month .....	50 cents per ton
Storage—two months .....	70 cents per ton
Storage—three months, or balance of season, June 1 to May 31 following .....	80 cents per ton
Loading onto cars, capacity 25 tons or less .....	15 cents per ton
Loading onto cars, over 25 tons capacity—	
First 25 tons .....	15 cents per ton
Balance of car .....	25 cents per ton

<i>Weighing and Loading.</i>	
Weighing and loading onto wagons .....	15 cents per ton
Weighing over wagon scale and loading onto cars .....	40 cents per ton
Weighing over wagon scale and loading onto cars following temporary deposit in warehouse not exceeding 10 days .....	50 cents per ton
Weighing over platform scale and loading onto cars .....	50 cents per ton
Necessary resacking charged to owner at cost of labor and materials.	

The collection of above rates is conditioned upon the rendering of first-class service in receiving, weighing, piling, carrying in storage, resacking, loading into cars, and such other service as it is customary for warehousemen similarly situated to render.

Dated at San Francisco, California, this fifth day of September, 1917.

## DECISION No. 4618.

IN THE MATTER OF THE APPLICATION OF SOUTHERN COUNTIES GAS COMPANY OF CALIFORNIA FOR AUTHORITY TO ISSUE AND SELL ADDITIONAL BONDS IN THE AMOUNT OF THREE HUNDRED SIXTY-FOUR THOUSAND DOLLARS.

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Application No. 2974.

*Decided September 5, 1917.*

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Supplemental order permitting the issuance and sale of \$34,500.00 face value of bonds, being a portion of bonds heretofore authorized, such bonds to be sold at not less than 80, proceeds to be used to discharge notes and accounts payable.

*Hunsaker & Britt and LeRoy M. Edwards, by G. Harold Jancway, for Applicant.*

LOVELAND, *Commissioner.*

**THIRD SUPPLEMENTAL ORDER.**

Whereas this commission in Decision No. 4430, dated June 26, 1917, authorized Southern Counties Gas Company of California to issue \$364,000.00 face value of its first mortgage twenty-year 5½ per cent bonds due and payable May 1, 1936, to finance 80 per cent of its proposed capital expenditures for the year ending March 30, 1918, upon the condition that \$40,000.00 of said bonds might be issued and sold immediately but that the balance of said bonds should only be issued subject to the terms and conditions of supplemental orders from this commission; and

Whereas Southern Counties Gas Company of California has now filed with this commission a second supplemental application dated August 22, 1917, requesting authority to issue and sell \$34,500.00 face value of said bonds at not less than 90 and accrued interest under the terms and provisions of the aforesaid order made in said Decision No. 4430; and

Whereas in Exhibit "A" attached to the second supplemental application, applicant reports that during the month of July, 1917, it expended for permanent extensions, betterments and improvements to its existing plant and property the sum of \$43,284.31; and

Whereas under the provisions of applicant's trust deed it is entitled to issue bonds for 80 per cent of this amount, or \$34,627.44; and

Whereas applicant further represents that it has a balance on hand against which bonds have not been issued of \$195.28, making the total face value of bonds which applicant is now entitled to issue the sum of \$34,822.72; and a public hearing having been held, and the Railroad Commission being of the opinion that the money, property or labor to



be procured or paid for by such issue is reasonably required for the purpose or purposes specified in the order, and that such purpose or purposes are not, in whole or in part, reasonably chargeable to operating expenses or to income.

*It is hereby ordered* that Southern Counties Gas Company of California be and it is hereby authorized to issue and sell \$34,500.00 face value of its first mortgage twenty-year  $5\frac{1}{2}$  per cent bonds due and payable May 1, 1936.

The authority hereby granted applicant to issue and sell bonds is granted upon the following conditions and not otherwise:

1. The bonds hereby authorized to be issued shall be sold so as to net applicant not less than 90 per cent of their face value in cash, plus accrued interest.

2. The proceeds from the sale of the bonds hereby authorized to be issued shall be used to pay notes and accounts payable, listed in Exhibit No. 3, Second Supplemental Application No. 2974.

3. Southern Counties Gas Company of California shall keep separate, true and accurate accounts showing the receipt and application in detail of the proceeds of the sale of the bonds herein authorized to be issued; and on or before the twenty-fifth day of each month the company shall make verified reports to the Railroad Commission, stating the sale or sales of said bonds during the preceding month, the terms and conditions of the sale, the moneys realized therefrom, and the use and application of such moneys, all in accordance with this commission's General Order No. 24, which order, in so far as applicable, is made a part of this order.

4. The authority herein granted to Southern Counties Gas Company of California to issue bonds is conditioned upon the payment by applicant of the fee prescribed by the Public Utilities Act.

5. The authority herein granted Southern Counties Gas Company of California to issue bonds shall apply only to such bonds as shall be issued on or before November 30, 1917.

The foregoing third supplemental order is hereby approved and ordered filed as the third supplemental order of the Railroad Commission of California.

Dated at San Francisco, California, this fifth day of September, 1917.

## DECISION No. 4619.

IN THE MATTER OF THE APPLICATION OF SIERRA AND SAN FRANCISCO POWER COMPANY FOR PERMISSION TO ACQUIRE AND OF YOSEMITE POWER COMPANY FOR PERMISSION TO TRANSFER AND CONVEY TO SIERRA AND SAN FRANCISCO POWER COMPANY ALL THE PROPERTY AND FRANCHISES IN WHAT IS COMMONLY KNOWN AS THE LA GRANGE DIVISION OF THE SAID YOSEMITE POWER COMPANY.

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Application No. 3045.

*Decided September 5, 1917.*

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Yosemite Power Company authorized to transfer to the Sierra and San Francisco Power Company that portion of its electrical generating and distributing properties known as the La Grange Division for the sum of \$450,000.00 plus the cost of additions and betterments made since December 1, 1916, provided that such order shall not become effective until applicants shall have filed a copy of the court order dismissing a pending suit over water rights instituted by the Modesto and Turlock irrigation districts.

*Chickering & Gregory*, for Sierra and San Francisco Power Company.  
*Chas. S. Wheeler and John F. Bowie*, for Yosemite Power Company.

DEVLIN, *Commissioner*.

## OPINION.

In this application Yosemite Power Company asks authority to sell its property commonly known as the La Grange Division to the Sierra and San Francisco Power Company for the sum of \$450,000.00 cash plus the cost of additions and betterments from December 1, 1916, to date of conveyance.

The Sierra and San Francisco Power Company applies for authority to purchase said property for the above sum or such other price as the commission might approve as a fair amount for it to capitalize.

The property to be sold consists of a water right on the Tuolumne River near Indian Bar, a water conduit about 17 miles in length, and a 900 kilowatt hydroelectric plant at La Grange, together with a transmission and distribution system and the electric lighting and industrial power business located in that portion of Stanislaus County lying east of the San Joaquin River, south of the Tuolumne River and north of the Merced River, in which district service is rendered to the towns of Turlock, Denair, Ceres, Hughson, Hickman, Waterford and La Grange. The property to be conveyed is more completely described in Exhibit "A" attached to this order, which is a copy of the description of property as set forth in the proposed deed between Yosemite Power Company and Sierra and San Francisco Power Company.

The water right referred to above consists of the right to the use of 66 second-feet of the flow of the Tuolumne River at a point known as

Indian Bar, some 13 miles above the town of La Grange. This right has been established by years of actual use by the Yosemite Power Company and its predecessors in interest and its validity has been admitted by the Modesto and Turlock irrigation districts which divert water for irrigation between the intake and power house of the Yosemite Power Company. A suit formerly filed by said districts contesting this right is still pending, but according to the terms of a recent agreement between directors of these districts and the power company, the districts stipulated that the power company's right covers 66 second-feet of the natural flow of the river, and with this understanding agreed to ask the courts to dismiss the pending action contesting the same. The power house use is subject to diversion of 100 miner's inches to the La Grange Gold Dredging Company during the time only that actual dredging operations are continued, an average annual flow not to exceed 100 miner's inches with a maximum of 167 miner's inches for irrigation purposes to a ranch owned by the said gold dredging company, and the domestic and garden and city requirements of the town of La Grange.

In connection with investigation of the rates of the Yosemite Power Company called into question in Case No. 909 and Application No. 2410, the commission's engineering department reported on the valuation of this company's La Grange Division properties as follows:

Reproduction cost on historical basis.....	\$559,235 00
Reproduction cost less accrued depreciation—straightline basis.....	366,988 00
Original cost as shown by company's books.....	473,774 00

The above figures represent the physical properties plus the cost of franchises and what may be considered a fair estimate of the cost of organizing the company. No allowance whatsoever has been made for any of the so-called intangible items such as development cost and going concern value, nor has any claim been made by the vendor for a separate allowance for any such intangible value.

The gross revenue of the Yosemite Power Company in 1916 from the sale of electric energy in the La Grange Division was \$71,677.45. The operating expenses, exclusive of depreciation for the same year, were \$34,983.90, leaving a net return for interest and depreciation of \$36,693.55, or only slightly in excess of 8 per cent for interest and depreciation on the total price proposed to be paid for the property by the Sierra and San Francisco Power Company. Evidence in Case No. 909 shows that at least \$3,000.00 of the expenses are not chargeable to the La Grange Division. If this is deducted, a net return remains for interest and depreciation of 8.8 per cent on the proposed payment for the property. The Sierra and San Francisco Power Company in all probability can operate the system more economically in connection with its present larger system, thereby increasing the net return.

The Yosemite Power Company desires to transfer the property because of its difficulty in obtaining at this time funds to extend its lines and develop new business. The public will be benefited by the transfer of this property inasmuch as the purchasing company will be able to extend its lines more freely and is willing to make effective its rates now charged for general power and lighting service in the San Joaquin Valley. These rates are slightly lower than those now in effect on the Yosemite Power Company's system and are as low as this commission finds from evidence in Case No. 909 would be warranted, were the Yosemite company to continue to operate its own system. As I have already noted, considerable economy can be effected by the Sierra and San Francisco Power Company in the operation of the La Grange Division by making the latter a part of its own system. This will result both in reduced expenses and in an increased output of electric energy from the hydroelectric plant. The output of this plant can, in all probability, be increased to at least 6,000,000 kilowatt hours per annum by continuous operation, whereas the output in 1916 was only 3,957,600 kilowatt hours.

With the further extension of the system and the economies which can be effected, the Sierra and San Francisco Power Company should be able to earn more than the cost of money on the amount which it proposes to pay for the property.

The Yosemite Power Company owns, in addition to the property to be transferred, certain water rights and an irrigation system and undeveloped power projects in the county of Tuolumne, which are not considered in this transfer and which it will retain.

Yosemite Power Company reports \$1,640,300.00 of common and \$410,000.00 of preferred stock outstanding. The company also reports a bonded indebtedness of \$1,708,000 and a current indebtedness of about \$172,000.00. The holders of all bonds, except \$8,000.00, have deposited their bonds under an agreement dated November 11, 1916, which provides that the proceeds from the sale of the properties shall be applied, first, to the payment of the current indebtedness, and, second, to the pro rata reduction of the bonded debt and maintenance of the property retained by Yosemite Power Company. The evidence in this proceeding shows that arrangements have been made for the acquisition of the \$8,000.00 of bonds by bondholders who have deposited their bonds under the agreement.

I recommend the following form of order:

#### **ORDER.**

Sierra and San Francisco Power Company and Yosemite Power Company having applied for authority to purchase and sell, respectively, the property of the latter known as the La Grange Division for

the sum of \$450,000.00 plus cost of additions and betterments from December 1, 1916, to date of transfer, and public hearing having been held and the matter now being ready for decision, the commission basing its order upon the above finding of fact and the findings of fact as set forth in the opinion preceding this order,

*It is hereby ordered* that Yosemite Power Company be and the same is hereby authorized to sell and convey to the Sierra and San Francisco Power Company for the sum of \$450,000.00 plus the cost of additions and betterments from December 1, 1916, to date of final conveyance, that electric production, transmission and distribution property and utility business known as the La Grange Division and including the real and personal and other properties as set forth in Exhibit "A" attached to this order; provided, that this order shall not become final until the applicants have filed a copy of the judgment of the court dismissing the water right case now pending as instituted by the Modesto and Turlock irrigation districts; and provided, further, that the consideration given for the property herein authorized to be transferred shall not be taken before this commission or any other public body as representing the value of said property for rate fixing or any other purpose, except for the purpose of this proceeding.

The authority hereby granted to sell and transfer the aforesaid properties shall apply only to such properties as are sold and transferred on or before December 20, 1917.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the state of California.

Dated at San Francisco, California, this fifth day of September, 1917.

#### EXHIBIT "A."

*Property of Yosemite Power Company to be conveyed to the Sierra and San Francisco Power Company for the sum of \$450,000:*

##### I.

The entire canal system formerly owned by the La Grange Ditch and Hydraulic Mining Company, diverting its water from the water right of party of the first part at Indian Bar in the County of Tuolumne, State of California, said canal being situated in the following sections in Tuolumne and Stanislaus Counties, namely: T. 2 S., R. 15 E., Sections 17, 18, 19, 30; T. 2 S., R. 14 E., Sections 25, 36, 35; T. 3 S., R. 14 E., Sections 2, 3, 10, 15 and 16 in Stanislaus County; T. 3 S., R. 14 E., Sections 16, 21, 20, 29 and 32.

Together with all appurtenances and the ways of water rights, ditch camps, cabins, lands, reservoirs, rights-of-way, etc., appertaining thereto.

##### II.

That certain water right situated in Section Six (6) T. 2 S., R. 15 E., at a point on the Tuolumne River known as Indian Bar; said water right being for the purpose of supplying the canal formerly owned by the La Grange Ditch and Hydraulic Mining Company its full complement of water; said water right consisting of Sixty-Six (66) cubic feet second of the natural flow of the Tuolumne River.

## III.

That certain real property known as Forebay Site, located as follows, to-wit: Beginning 480 feet S. of the Northwest corner of Southwest Quarter ( $\frac{1}{4}$ ) South 84° feet; South Sixty-One Degrees, Forty-Six Minutes ( $61^{\circ} 46'$ ) East 2398.4'; N. 1157.7' to county road; N. Westerly 2284.4' along road to beginning Sec. 21, T. 3 S., R. 14 E.

## IV.

Penstock Site described as follows, to-wit: From the  $\frac{1}{4}$  section corner between sections 20 and 21, run S.  $24^{\circ} 8'$ , E. 521.1' to point of beginning; S.  $69^{\circ} 26'$ , E. 455.3', N.  $13^{\circ} 35'$ , W. 253.4', S.  $84^{\circ} 57'$ , W. 181.1', S.  $77^{\circ} 10'$ , W. 86.8', S.  $63^{\circ} 22'$ , W. 114.1' to point of beginning, Section 21, T. 3 S., R. 14 E.

## V.

Forebay and Canal Site, described as follows, to-wit: S.E.  $\frac{1}{2}$  (Exc. W. 15 chains of N. 20 chains) Sec. 20, T. 3 S., R. 14 E.

## VI.

Power Plant Site described as follows, to-wit: Beginning at the S.W. corner of the S.E.  $\frac{1}{4}$  of the N.E.  $\frac{1}{4}$  of Section 20, T. 3 S., R. 14 E., M. D. B. & M., in the County of Stanislaus, California; thence, north 1575' to the south side of the Tuolumne River; thence from said point of the river bank easterly in direction 400'; thence south 1575'; thence W. 400' to the said place of beginning, said tract of land containing  $14\frac{1}{2}$  acres.

## VII.

Power House, electrical machinery and equipment, machinery of all kind, tool, stock and supplies, cottage, store room, and equipment of every kind and nature, now located upon the property described in a preceding paragraph.

## VIII.

All pole lines, including transmission and telephone, transformers, stations and all appurtenances thereto, either now constructed or under construction in Stanislaus County, California, running from the company's power site above the town of La Grange in Section 20, T. 3 S., R. 14 E., to the following towns and localities: La Grange, Hickman, Hughson, Turlock, Waterford, Ceres and Denair; also to the La Grange Gold Dredging Company's dredge camp.

## IX.

All of the following described property located in the town of Hickman, County of Stanislaus, State of California, to-wit: Fractional part of Block 34 thereof, together with all the appurtenances thereon: All of the following described property in the town of Hughson: Block 1, Lot 6 thereof, together with the appurtenances thereon; Lots 1 to 6 of Block 10 of the City of Turlock, according to the official map or plat thereof in the County of Stanislaus, State of California, together with the appurtenances thereon.

## X.

All of the following described franchises, to-wit: A franchise granted by the County of Stanislaus to the La Grange Water and Power Company on August 8th, 1908, expiring August 8th, 1958, grants the right to transmit and distribute electric energy in that portion of Stanislaus County south of Dry Creek and the Tuolumne River and east of the San Joaquin River. A franchise granted by the City of Turlock October 9th, 1908 expiring October 9th, 1958, grants the right to transmit and distribute electric energy in the City of Turlock.

## XI.

All rights-of-way, either now secured or to be secured for the erection of pole lines and the operation of property under the franchises above mentioned.

## XII.

All lines for distribution of electrical energy in the towns of Waterford, Hickman, La Grange, Hughson, Ceres, Denair, Turlock and any and all distributing lines, transformers, meters, services, and things appurtenant thereto heretofore owned by Yosemite Power Company and located upon its distributing systems in the County of Stanislaus, California.

## XIII.

All stock on hand at La Grange, including tools, supplies, material on hand at the ditch camps, merchandise and stock on hand now owned by the Company in Turlock together with all office fixtures, furniture and equipment of any kind or nature, located in the office of Yosemite Power Company in Turlock, California; all automobiles, equipment therefor, and any and all things of every kind and nature, now owned by Yosemite Power Company and used or to be used in the operation thereof, wherever situated, the same being limited to the La Grange Division only.

For a further and more particular description of the property to be conveyed, reference is hereby made to the report and summary of the engineer for the Railroad Commission of the State of California in cases 900 and 2410, which said report is on file with the Railroad Commission of the State of California.

## XIV.

The Riverside Placer Mining Claim located in Section 20, T. 3 S., R. 14 E., M. D. B. & M. together with all other property of the La Grange Division of grantor not herein named, tangible and intangible, and the good will of grantor Yosemite Power Company.

## XV.

The conveyance of 66 second feet of water herein mentioned is made subject to the rights of La Grange Gold Dredging Company in and to certain water, more particularly described in the conveyance of the same heretofore recorded from grantor herein to La Grange Gold Dredging Company.

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 DECISION No. 4620.

IN THE MATTER OF THE APPLICATION OF KINGS LAKE SHORE RAILROAD COMPANY FOR AN ORDER AUTHORIZING AN ISSUE OF CAPITAL STOCK AND BONDS.

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 Application No. 2919.

*Decided September 6, 1917.*

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BY THE COMMISSION.

**SECOND SUPPLEMENTAL ORDER.**

Whereas pursuant to the order in Decision No. 4461, dated July 16 1917, applicant in the above-entitled matter filed with the Railroad Commission for approval an amended copy of its proposed mortgage to secure the payment of \$311,000.00 face value of 6 per cent 20-year bonds; said copy for purposes of identification having been marked "Exhibit Number 1 amended"; and good cause appearing.

*It is hereby ordered* that Kings Lake Shore Railroad Company be, and it is hereby granted authority to execute a mortgage in substantially the same form and tenor as the mortgage filed in this proceeding and marked "Exhibit Number 1 amended."

The approval hereby given of said mortgage is for the purpose of this proceeding only and an approval in so far as this commission has jurisdiction under the terms of the Public Utilities Act and is not intended as an approval of said mortgage as to such other legal requirements to which said mortgage may be subject.

*It is hereby further ordered* that the order in Decision No. 4461, dated July 16, 1917, as amended, shall remain in full force and effect except as modified by this second supplemental order.

Dated at San Francisco, California, this sixth day of September, 1917.

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DECISION No. 4621.

WEYL-ZUCKERMAN AND COMPANY

vs.

SOUTHERN PACIFIC COMPANY.

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Case No. 1063.

*Decided September 6, 1917.*

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Demurrage Rule 13(b) provides that on orders for more than five cars and less than eight a carrier shall have 96 hours in which to place them, consequently an order for three cars placed at 5.30 p.m. October 21, with an additional order for three more cars placed at 1.30 October 22, would give the carrier until 7.00 a.m. October 27 for spotting cars, as such orders must be considered as a single order. As the cars were placed on the twenty-sixth, complainant has no claim for reciprocal demurrage. Complaint dismissed.

A shipper of freight can not claim before this commission that it is entitled to preferential treatment on the grounds that it ships a considerable number of cars annually, for it is the sole purpose of the Public Utilities Act to see that all patrons of public utilities are treated alike irrespective of whether their business is large or small.

*C. W. DeJournette*, for Complainant.

*Elmer Westlake*, for Defendant.

LOVELAND, *Commissioner*.

**OPINION.**

Complainant in this action, a corporation organized and existing under the laws of the state of California, by complaint filed April 5, 1917, alleges that a reciprocal demurrage bond was filed with defendant in accordance with Pacific Car Demurrage Bureau Tariff No. 2-E (C. R. C. No. 7), and that under the rules of this tariff an order was given carrier calling for ten cars to be placed at Stockton October 20, 1915, for loading potatoes and onions and which is referred to in the complaint as Order No. 7 of October 19; likewise that shipper filed an order October 21, 1915, referred to as Order No. 9, requesting three cars to be placed at Stockton October 22, 1915, for loading of same commodities.



Complaint further avers that three cars on Order No. 7, viz., Pacific Fruit Express 4607, 3869 and 8622, and two cars on Order No. 9, viz., Pacific Fruit Express 8083 and 2328, were not placed until October 26, in consequence of which it is contended that defendant is liable to shipper for reciprocal demurrage amounting to \$15.00, which it refuses to pay.

The answer alleges that Order No. 7 called for Pacific Fruit Express refrigerator cars, specifying destination as Los Angeles, and that complainant refused to accept cars of other character, although defendant was willing and able to furnish suitable equipment; that it is not required to furnish Pacific Fruit Express refrigerator equipment for the transportation of these commodities.

It further avers that three cars mentioned in complaint under this order, viz., P. F. E. 4607, 3869 and 8622, were not billed to Los Angeles, as specified in shipper's application, but were ordered to Bakersfield and Fresno and subsequently diverted to Los Angeles; also that some of the ten cars furnished were shipped or diverted to interstate points and to destinations within this state other than Los Angeles.

Concerning Order No. 9, defendant makes same allegation with respect to Pacific Fruit Express refrigerator equipment being requested and refusal of complainant to accept other equipment; furthermore, that this order specifies destination as Bakersfield, but that car P. F. E. 8083 was shipped to Fillmore, P. F. E. 2328 billed to Los Angeles and there reconsigned to El Paso and that under this order there was also furnished car P. F. E. No. 4719, which was billed to Los Angeles and subsequently reconsigned to El Paso, all of which, it is contended, thereby precludes the application of the reciprocal demurrage provision.

Defendant's answer furthermore avers that all of the five cars specified in complaint were furnished within the time allowed by rules of the tariff.

At the hearing complaint was amended by reducing the amount to \$3.00 and excluding all cars except P. F. E. 8083; this for the reason that the consignments loaded into the other four cars were diverted to interstate destinations, thus removing them from the jurisdiction of this commission.

Only one witness appeared for complainant and no exhibits were filed at the hearing, testimony being devoted almost entirely to a recital of the difficulties experienced in securing cars during this period of car shortage and to a general discussion of the rules contained in Pacific Car Demurrage Tariff No. 2-E, C. R. C. No. 7, particularly Rules 3-A (f), 13 (b) and 16, which read as follows:

"Whenever it shall appear to the satisfaction of the commission that the failure of a railroad to furnish a car or cars for loading within the time fixed by these rules, or the failure of the shipper or

consignee to load or unload the same was due to causes beyond the control of such carrier, shipper or consignee, no payment shall be required to be made on account of such delay."

"A shipper may order cars for placing at any time within fifteen (15) days from the time of the order and the carrier shall be required to place the cars on the date required by the shipper, except that on orders of three cars or less the carrier shall be allowed forty-eight (48) hours to place such cars for loading after the first 7 a.m. following the receipt of the order; seventy-two (72) hours for any number of cars more than three and less than six; ninety-six (96) hours for any number of cars more than five and less than eight; one hundred and twenty (120) hours for any number of cars more than seven and less than eleven; and for each three additional cars in excess of ten, twenty-four (24) hours additional time. Each of such periods of time shall begin to run at the first 7 a.m. following the receipt of the order."

"Whenever any disputes arise between shippers, consignees and carriers concerning the interpretation of these rules and concerning any claim arising hereunder, the same shall be submitted to the commission for adjustment."

Defendant's witnesses went into great detail and introduced a number of carefully-prepared exhibits, showing the methods employed by complainants in their efforts to secure refrigerator cars for consignments of potatoes and onions; number of cars handled by complainant, compared with the total number of cars forwarded by other dealers; cars diverted and ordered to connecting lines; cars held overtime and amount of demurrage charge paid; kind of equipment used; copies of diversion orders and other particulars not necessary to refer to here.

It is not essential to analyze these exhibits, for while interesting and complete they are nowise controlling in reaching a conclusion in this case.

Demurrage Rule 13 (*b*), *supra*, provides that on orders of three cars or less the carrier shall be allowed forty-eight hours; more than three cars and less than six, seventy-two hours; more than five cars and less than eight, ninety-six hours.

The car in question, P. F. E. 8083, was one of six wanted for loading at Stockton October 22, 1915. Order No. 9, calling for three cars, was placed with agent, Stockton, 5.30 p.m. October 21, and Order No. 10, also for three cars, was issued at 1.30 p.m. October 22, both orders specifying that cars were wanted for loading on October 22. Therefore, we have two orders for six cars to be loaded by the same consignor at the same station on the same date. The six cars to fill the order were all placed at 5.30 a.m. October 26, and had they been requisitioned on the one order October 21, instead of being covered by two, defendant would have enjoyed a free period of 96 hours in which to furnish the cars, or until 7 a.m. October 27, and therefore the placing of the cars October 26

was 24 hours in advance of the free time allowance given in the tariff under the one order rule.

The settlement of this particular claim is one of tariff interpretation and I am of the opinion that when separate orders are issued for cars under reciprocal demurrage rule No. 13, and all cars demanded are for placement at one station on one day, the orders should be combined, treated as one and as of date of the first order. To interpret the rule otherwise would lead to endless confusion, deprive carriers of their time tolerance and make void the reciprocal feature of this commission's General Order No. 41 of December 12, 1914.

In Case No. 362, *Golden Gate Brick Company vs. Western Pacific Railway Company*, Vol. 2, Opinions and Orders of the Railroad Commission of California, pages 607-609, Commissioner Eshleman said:

“Tariffs should be clear and unambiguous, and when there is an ambiguity by reason of which a shipper has suffered, the carrier being responsible for the ambiguity should certainly be required to sustain the loss, but where, as here, the shipper shows no loss whatsoever and the construction sought is contrary to the plain intent of the tariff, I think such shipper should have no standing before this commission.”

This ruling holds good to the case at bar.

The complainant in this case, as testified by its own witness, claims that it being a very large shipper of both state and interstate traffic is entitled to preference in the distribution of equipment. This position is entirely untenable, for one of the principal objects of the Public Utilities Act was to require carriers to formulate rules which would apply alike to all shippers, whether large or small, having one carload a year or a thousand.

Defendant discussed at length the difficulties under which it labored at the time these car orders were filed, and reference is made to the acute equipment shortage brought about by the international situation and to the fact that available cars were distributed without discrimination as between shippers, also that this complainant could have been supplied with safe equipment for the transportation of potatoes and onions had it been willing to accept cars other than refrigerators for local movements.

There is no reciprocal demurrage due in this case, as the methods used by complainant in ordering cars is not permitted by the tariffs and there was no showing that any of the rules or regulations were or are unjust or unreasonable. The complaint will be dismissed.

I submit the following form of order:

**ORDER.**

The above-entitled case having come on regularly for hearing and the commission being duly advised in the premises,

*It is hereby ordered* that said complaint be and the same is hereby dismissed.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the state of California.

Dated at San Francisco, California, this sixth day of September, 1917.

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DECISION No. 4622.

IN THE MATTER OF THE APPLICATION OF LOS ANGELES AND SALT LAKE RAILROAD COMPANY AND CRESCENT WHARF AND WAREHOUSE COMPANY FOR AUTHORITY TO ENTER INTO A LEASE COVERING A CERTAIN WHARF AT EAST SAN PEDRO, CALIFORNIA.

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Application No. 3114.

*Decided September 6, 1917.*

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Salt Lake Railroad Company authorized to lease to the Crescent Wharf Company a portion of a certain wharf at San Pedro, California.

*E. E. Bennett*, for Los Angeles and Salt Lake Railroad Company.

*E. A. Mills*, for Crescent Wharf and Warehouse Company.

LOVELAND, *Commissioner*.

**OPINION.**

In this application permission is asked by the Los Angeles and Salt Lake Railroad Company, a corporation duly incorporated and existing under the laws of the state of Utah, owning property and operating within the state of California, to lease to the Crescent Wharf and Warehouse Company, a corporation duly incorporated and existing under the laws of the state of California, a part of a wharf constructed at San Pedro, California, by the San Pedro, Los Angeles and Salt Lake Railroad Company, predecessor to applicant, the Los Angeles and Salt Lake Railroad Company, and now owned by said applicant.

The application was heard at Los Angeles September 1, 1917. Notice of the hearing was sent to applicants and to the board of supervisors of Los Angeles County, and publication regularly made but only representatives of applicants were present at the hearing. The testimony in support of the pleadings developed the following facts:

On August 14, 1901, the Board of Supervisors of Los Angeles County by Ordinance No. 45 (new series, county of Los Angeles), approved August 14, 1901, granted to H. DeGarmo a franchise to construct and operate a wharf upon the land fronting on and extending into the waters of San Pedro Harbor; that thereafter, to wit, on September 23, 1901, said H. DeGarmo sold and assigned said franchise to J. Ross Clark; that on August 24, 1903, said J. Ross Clark sold and assigned

said franchise to applicant, the Los Angeles and Salt Lake Railroad, then called the San Pedro, Los Angeles and Salt Lake Railroad Company; that as successor to said San Pedro, Los Angeles and Salt Lake Railroad Company said Los Angeles and Salt Lake Railroad Company is now the owner of said wharf franchise, said ownership being authorized by the articles of incorporation and amendments thereto of said Los Angeles and Salt Lake Railroad Company; that said Los Angeles and Salt Lake Railroad Company desires to lease a part of the wharf constructed under said franchise No. 45, new series, supra, to the Crescent Wharf and Warehouse Company; that said applicant, the Los Angeles and Salt Lake Railroad Company has practically ceased to operate the said wharf except as to that portion which it now desires to lease to applicant, the Crescent Wharf and Warehouse Company; that the Crescent Wharf and Warehouse Company is in the wharf and warehouse business and is better prepared by reason of having the necessary appurtenances to a wharfage business such as traveling cranes, etc., and that the public will be better served by the granting of this application and the operation of said portion of the wharf by the Crescent Wharf and Warehouse Company.

The testimony further shows that said franchise will expire August 14, 1921, and that owing to changes incidental to governmental improvement of the Harbor of Los Angeles at San Pedro said franchise can not and will not be renewed; that applicants, the Los Angeles and Salt Lake Railroad Company and the Crescent Wharf and Warehouse Company have agreed to enter into arrangements by which the Crescent Wharf and Warehouse Company will operate said portion of said wharf and have prepared a lease, by the terms of which the Los Angeles and Salt Lake Railroad Company leases to the Crescent Wharf and Warehouse Company for the period of five years from August 14, 1916, that portion of the wharf covered by said wharf franchise No. 45, new series, supra, as shown in red on the map attached to and made a part of the application herein, said map being more particularly described as Exhibit "A."

I find that the interest of all concerned will best be served by granting the prayer of applicants, and recommend that permission be given to execute the lease prayed for.

#### ORDER.

The Los Angeles and Salt Lake Railroad Company and the Crescent Wharf and Warehouse Company having applied for permission to execute a lease of a portion of a certain wharf described in the opinion preceding this order, and it appearing that the interest of applicants and of the public will best be served by permitting the execution of said lease,

*It is hereby ordered* that said applicants be and they are authorized to execute a certain lease, copy of which was attached to application, by

the terms of which the Los Angeles and Salt Lake Railroad Company leases to the Crescent Wharf and Warehouse Company a part of a certain wharf at San Pedro constructed under franchise No. 45 (new series, county of Los Angeles), said part of said wharf being shown by red lines on Exhibit "A" attached to and made a part of the application.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the state of California.

Dated at San Francisco, California, this sixth day of September, 1917.

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DECISION No. 4623.

IN THE MATTER OF THE APPLICATION OF OAKLAND, ANTIOCH AND  
EASTERN RAILWAY COMPANY TO ISSUE CERTAIN NOTES.

Application No. 2915.

IN THE MATTER OF THE APPLICATION OF OAKLAND, ANTIOCH AND  
EASTERN RAILWAY COMPANY TO ISSUE CERTAIN NOTES.

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Application No. 3107.

*Decided September 6, 1917.*

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Applicant authorized to renew for a period of one year ten certain promissory notes of an aggregate face value of \$435,833.35 and to pledge its bonds as security therefor, provided that at no time shall the face value of the notes be less than 60 per cent of the bonds pledged as security.

*Jesse H. Steinhart*, for Applicant.

*EDGERTON*, Commissioner.

**OPINION.**

The above-entitled applications were consolidated for hearing and decision.

Applicant asks authority to issue notes for a term of one year or less for the purpose of renewing the following notes:

Payee	Date of Issue	Term of note	Interest	Face amount
Union Trust Co. of San Francisco...	Sept. 16, 1913	1 day	6	\$100,000 00
Union Trust Co. of San Francisco...	Sept. 29, 1913	1 day	6	100,000 00
Union Trust Co. of San Francisco...	Oct. 31, 1913	1 day	6	40,000 00
J. G. White Engineering Corp.....	Jan. 26, 1917	6 months	6	7,125 00
J. G. White Engineering Corp.....	Apr. 26, 1916	1 year	6	7,125 00
J. G. White Engineering Corp.....	Apr. 26, 1916	1 year	6	4,423 35
United States Steel Products Co....	Nov. 28, 1916	90 days	6	44,180 00
Anglo and London Paris Nat. Bank	May 7, 1915	1 day	7	23,000 00
Anglo and London Paris Nat. Bank	May 7, 1915	1 day	7	60,000 00
Cal. National Bank of Sacramento..	Mar. 18, 1914	1 day	7	40,000 00
<b>Total</b> .....				<b>\$435,833 35</b>

The testimony shows that the notes payable to the J. G. White Engineering Corporation are unsecured. The payment of the notes to Union Trust Company of San Francisco is secured by 400 Oakland, Antioch and Eastern Railway bonds; United Steel Products Company note by 75 bonds; Anglo and London Paris National Bank notes by 155 bonds; and the California National bank note by 86 bonds. Applicant desires authority to pledge bonds in the same amounts as are now pledged to secure the payment of the foregoing notes.

The issue of all of the notes, except those payable to the Union Trust Company of San Francisco, and the issue and pledge of the bonds, has heretofore been authorized by the commission.

The evidence in this proceeding shows that the proceeds of the notes payable to the Union Trust Company of San Francisco have been expended for capital purposes.

It appears that the granting of this application merely maintains the status quo of applicant.

I herewith submit the following form of order.

#### ORDER.

Oakland, Antioch and Eastern Railway having applied to this commission for authority to issue notes in the sum of \$435,853.35, and to pledge bonds as collateral to secure the payment of said notes set forth in the foregoing opinion, and a hearing having been held and it appearing that the money, property or labor to be procured by the issue of notes is reasonably required for the purpose or purposes specified in the order, and that such purpose or purposes are not in whole or in part reasonably chargeable to operating expenses, or to income,

*It is hereby ordered* that Oakland, Antioch and Eastern Railway be and it is hereby granted authority to issue promissory notes in the following amounts at the following rates of interest and to the following payees:

Payee	Date of issue	Term of note	Interest	Face amount
Union Trust Co. of San Francisco..	Sept. 16, 1913	1 day	6	\$100,000 00
Union Trust Co. of San Francisco..	Sept. 29, 1913	1 day	6	100,000 00
Union Trust Co. of San Francisco..	Oct. 31, 1913	1 day	6	40,000 00
J. G. White Engineering Corp.....	Jan. 26, 1917	6 months	6	7,125 00
J. G. White Engineering Corp.....	Apr. 26, 1916	1 year	6	7,125 00
J. G. White Engineering Corp.....	Apr. 26, 1916	1 year	6	4,423 35
United States Steel Products Co....	Nov. 28, 1916	90 days	6	44,180 00
Anglo and London Paris Nat. Bank	May 7, 1915	1 day	7	33,000 00
Anglo and London Paris Nat. Bank	May 7, 1915	1 day	7	60,000 00
Cal. National Bank of Sacramento..	Mar. 18, 1914	1 day	7	40,000 00
<b>Total</b> .....				<b>\$435,853 35</b>

*It is hereby further ordered* that Oakland, Antioch and Eastern Railway be and it is hereby authorized to issue and pledge as collateral 400 of its bonds to secure the payment of notes to be issued to the Union

Trust Company of San Francisco; 74 bonds to secure the payment of the note to be issued to the United States Steel Products Company; 155 bonds to secure the payment of notes to be issued to Anglo and London Paris National Bank; and 86 bonds to secure the payment of the note to be issued to California National Bank of Sacramento.

The authority hereby granted is granted upon the following conditions and not otherwise:

1. The notes hereby authorized to be issued shall be made payable during a period not exceeding one year from the date of the maturity of the notes which are being refunded or renewed. Applicant may issue and reissue said notes for a term less than one year, provided that the aggregate of said term shall not exceed one year, in any instance, from the date of the maturity of the notes refunded or renewed.

2. As the principal of the notes hereby authorized is paid off, bonds pledged as collateral shall be released in such an amount so that the face value of the notes shall never be less than approximately 60 per cent of the bonds pledged as collateral to secure the payment thereof. The bonds thus released shall be returned to applicant's treasury and thereafter issued only upon order of this commission.

3. Applicant shall file monthly reports as required by the Railroad Commission's General Order No. 24, said order being made a part of this order, in so far as the same is applicable.

4. The authority hereby given to issue notes and bonds shall become effective only after applicant has paid the fee specified in section 57 of the Public Utilities Act, as amended.

5. The authority to issue notes and bonds shall apply only to such bonds as may be issued on or before September 1, 1918.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the state of California.

Dated at San Francisco, California, this sixth day of September, 1917.

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DECISION No. 4624.

THOMAS CAIN

vs.

MONO LAKE LUMBER COMPANY.

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Case No. 1132.

*Decided September 6, 1917.*

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A transportation company which has never refused to accept a shipment of freight offered to it for movement and has assessed and collected a charge for such service can not claim that it is not a public utility irrespective of the fact that its articles of incorporation expressly provide that the road shall be constructed for private purposes only and not as a common carrier.



Upon a showing that there is no justification for the continued operation of its line of railway, complaint dismissed and defendant is authorized to suspend operation and abandon its road from Bodie to Mono Mills.

*Sanborn & Rochl* and *F. W. Nightingill*, for Complainant.

*John D. Murphy*, for Defendant.

*GORDON, Commissioner.*

#### OPINION.

The complainant in this proceeding, a citizen of Bodie, Mono County, alleges that he is engaged in the operation of mines in the vicinity of Bodie and elsewhere in Mono County and in the operation of said mines uses large quantities of lumber and mining timbers; that the defendant, Mono Lake Lumber Company, owns, controls, operates and manages a line of railroad from said town of Bodie to its timber holdings and saw-mill at Mono Mills in said county of Mono, and transports lumber, mining timbers and other commodities over said line of railroad and is a common carrier subject to the jurisdiction of this commission. The complaint further alleges that the defendant has entered into an arrangement to sell the railroad and its equipment and that such sale would deprive complainant and others of the use and benefit of said railroad in the transportation of lumber, mining timbers and other commodities and cause damage and loss to complainant and other citizens and that the proposed sale and transfer of said railroad is a violation of section 51 of the Public Utilities Act which requires the consent of this commission to such sale or transfer. Complainant asks that an order of the commission may be issued requiring the defendant to continue to perform the duties of a common carrier.

The defendant filed its answer in which it denied that the operation of its railroad had been conducted as a common carrier, alleged that it was expressly precluded from operating as a common carrier by its articles of incorporation or charter, and averred that it is not and never has been a common carrier of freight or passengers. The answer denies that the proposed sale and transfer of the railroad is or will be in violation of the provisions of section 51 of the Public Utilities Act and that defendant is obligated to perform any duty to the public or to any person.

Public hearings were held at San Francisco on August 17 and 29, 1917. The matter was duly submitted and is now ready for decision.

The Mono Lake Lumber Company was incorporated on August 11, 1908, under the laws of the state of Nevada, the articles of incorporation including the following clause: "to construct, operate and maintain railways and tramways to be used in connection with said business but not as a common carrier." The line of railroad extends from the town of Bodie in Mono County in a generally southerly direction to the east of Mono Lake and to Mono Mills in said Mono County, a distance of approxi-

mately 32 miles. From Mono Mills for a distance of about four miles the line extends into the timber lands of the company. The line traverses about 21 miles of sandy desert country and about 11 miles of mountainous country, there being no houses or settlement in the immediate vicinity excepting the town of Bodie at the northerly terminal and the sawmill plant of the Mono Lake Lumber Company at Mono Mills. The line was originally constructed and commenced operation in the year 1881 as a plant facility of the lumber company then operating and to which the Mono Lake Lumber Company has succeeded. The town of Bodie is an old mining center and lumber and mining timbers were manufactured at Mono Mills and shipped over the railroad of the defendant for many years for use in the mines and to supply the building necessities in the town of Bodie. The fuel wood supply of Bodie has also been transported over this railroad.

In recent years the mining activities in the vicinity of Bodie have been materially lessened and the population of Bodie has decreased from some three thousand persons to an estimated population of about two hundred and fifty.

The complainant in this case is the owner of a one-sixth interest in the Standard Mines and is interested in other claims in the vicinity of Bodie. Mr. J. S. Cain, manager of the Standard Mining Company, the Southern Mines and also interested in other properties in the vicinity of Bodie, testified that he had purchased lumber from the Mono Lake Lumber Company and its predecessors in interest since the railroad was first operated in 1881, and had also shipped hay at various times for which freight charges of \$3.00 per ton were assessed, and that he had personal knowledge of line shipments upon which a freight charge had been assessed.

In the shipment of hay it was customary to order the placing of cars and cars would be furnished and placed for loading at the time and place specified and freight charges would be assessed covering the movement of such commodity. Mr. Cain further testified that to his personal knowledge shipments had been moved for compensation for a period covering the past fifteen years and that to his knowledge no shipment had ever been declined.

It appears that mining interests in the vicinity of Bodie are endeavoring to rehabilitate some of the older properties and that development work is being done, a new mill having recently been purchased for installation on one of the properties, some thirty men being at present employed on the property of the Standard Mining Company. The development work and rehabilitation of the old properties will require the use of lumber and mining timbers and the isolated location of Bodie and the difficulties of transporting lumber from other sources of supply would seriously interfere with and increase the expense of the mining industry.

Mr. E. W. Billeb, superintendent of the Mono Lake Lumber Company since April, 1908, testified that prior to and including the year 1912 practically all the products of the lumber company were sold in the town of Bodie, the Standard Mining Company being the principal customer.

Since the year 1912 and due to the decreased mining activity at and in the vicinity of Bodie and the lessened demand for lumber products the cut of timber during the year 1913 was but 1,700,000 feet; in the year 1914, 700,000 feet; in the year 1915, 600,000 feet and since 1915 the lumber mill has not been operated. There is now stored at Bodie approximately 80,000 feet of manufactured lumber.

The equipment on the railroad consists of 30 flat cars, each of 10-ton capacity and 26 feet in length; three locomotives, two of which are in fair condition; one caboose car and one gasoline motor car. The physical condition of the line is poor and due to the necessity for new ties and widening of embankments is unsafe for operation. It appears from the testimony that an expenditure of approximately \$12,000.00 is necessary to place the road in condition to ensure its safe operation.

According to statements filed as exhibits, the gross revenues derived from operation for the years 1912 to 1916, inclusive, are as follows:

1912 Commercial freight .....	\$634 00
1913 Special earnings including railroad operation.....	1,534 35
1914 Special earnings including railroad operation.....	1,055 64
1915 Special earnings including railroad operation.....	1,227 03
1916 Special earnings including railroad operation.....	2,829 08

With the exception of the year 1912 for which exhibits show actual revenue from railroad operation as regards commercial freight hauled, the account "Special Earnings" includes also earnings from other sources although the cost of railroad operation against the "Special Earnings" account appears as follows: Year ending December 31, 1913, \$299.77; year ending December 31, 1914, \$191.04; year ending December 31, 1915, \$90.03, and year ending December 31, 1916, \$8.87.

Record of freight handled on commercial basis appears as follows:

Year ending December 31, 1913:

Lime .....	8 carloads
Hay .....	9 carloads
Freight and sundries .....	10 carloads
Total .....	27 carloads

Year ending December 31, 1914:

Hay .....	10 carloads
Merchandise .....	2 carloads
Total .....	12 carloads

Year ending December 31, 1915:

Sand .....	2 carloads
Merchandise .....	2 carloads
Total .....	4 carloads

Year ending December 31, 1916:

Sand .....	1 carload
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While the volume of commercial freight that has been hauled during the years reflected by the exhibits is small, due to the fact that the railroad operates through a sparsely settled country, it appears that no freight that was offered for movement was ever refused and also that compensation was always exacted from the public for such movement.

It is apparent that the defendant, notwithstanding that its charter specifically prohibited the operation of its railroad as a common carrier, did accept any and all freight shipments offering for movement and charged the public therefor. I find as a fact that by reason of such action on the part of the defendant, Mono Lake Lumber Company, and the further evidence that no shipments offered were ever refused but that all were accepted and transported for compensation, that the railroad of the defendant has been operated as a common carrier.

At the last hearing on this proceeding the attorney for the defendant, Mono Lake Lumber Company, requested permission that the answer of defendant be amended to the effect that if a finding of fact be made by this commission that the railroad of the defendant had been and was operating as a common carrier, an order be entered permitting the suspension of operation and abandonment of the line for the reason that the physical condition of the line and the extremely limited amount of traffic offering did not justify its continuance.

The testimony of witnesses and the exhibits filed in this proceeding show conclusively that the business of this railroad is not productive of revenue sufficient to justify its operation; that the sawmill of the Mono Lake Lumber Company is inoperative; that no lumber has been manufactured since the year 1915; that all the lumber now cut has been hauled from Mono Mills to the town of Bodie; and that only a few hundred cords of fuel wood remain at Mono Mills and in the woods, which cords are now being hauled to the town of Bodie. When the fuel wood will have been transported, there will remain no traffic, either for the account of the lumber company or for other individuals, which would justify the operation of the railroad owned by the defendant. As a rehabilitation of the sawmill and railroad together with an extension of the road into the uncut timber would be necessary to place the property of the defendant on a working basis, I am of the opinion that permission should be granted for the suspension of operation and abandonment of the railroad.

I recommend the following form of order:

#### ORDER.

Public hearings having been held in the above-entitled proceeding, the same having been submitted and the Railroad Commission being fully advised, the Railroad Commission hereby finds as a fact that the railroad of defendant Mono Lake Lumber Company is and has been

operated as a common carrier of freight, that said railroad has not and does not pay even operating expenses and that there is no public convenience and necessity which would justify the issue of an order compelling defendant to continue its operations as a common carrier of freight. Basing its order on the foregoing findings of fact and on the other findings of fact which are contained in the opinion which precedes this order,

*It is hereby ordered* as follows:

1. The complaint in the above-entitled proceeding is hereby dismissed.
2. The defendant Mono Lake Lumber Company is hereby authorized to suspend operations and to abandon its railroad between Bodie and Mono Mills, in Mono County, California.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the state of California.

Dated at San Francisco, California, this sixth day of September, 1917.

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DECISION No. 4625.

HENRY H. DENISON

*vs.*

SOUTHERN PACIFIC COMPANY.

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Case No. 1087.

*Decided September 6, 1917.*

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A rate of \$1.80 per ton on redwood bark, carloads, Santa Cruz County points to Oakland is considered unduly high in comparison with a rate of \$1.20 on lumber between the same points. Defendant directed to establish a rate of \$1.20 per ton on bark (except tanbark), carloads, minimum 40,000 pounds between above-mentioned points.

LOVELAND, *Commissioner*.

#### OPINION.

Complainant, a lumberman with office at Sacramento, alleges that rate of \$1.80 per ton on redwood bark, carloads, from Santa Cruz district to Oakland is unreasonable as compared with rate of \$1.20 per ton contemporaneously in effect on lumber, carloads, and prays that the commission establish rates for this commodity in carloads from Santa Cruz district to San Francisco, Oakland and bay points not in excess of rates on lumber.

The rate attacked reads:

Commodity	From	To	Rate per ton of 2,000 pounds
Bark (except tanbark). carloads, minimum car- load weight, 30,000 pounds.	Laurel, Cal. ....	Oakland, Cal. ....	\$1 80
	Glenwood, Cal. ....		
	Felton, Cal. ....		
	Newell Junction, Cal. ....		
	Newell Creek Mill, Cal. ....		
	Ben Lomond, Cal. ....		
	Boulder Creek, Cal. ....		
	Santa Cruz, Cal. ....		
	Aptos, Cal. ....		
	Loma Prieta, Cal. ....		

Defendant denies the unreasonableness of rate assailed and contends that the lumber rate is not a proper measure of the rate for bark.

At the hearing petition of intervention was filed by Mr. U. S. McMillan in behalf of the Redwood By-Products Company. From testimony submitted by complainant and intervener, it was shown that redwood bark is used in the manufacture of roofing felt and building paper, in which respect it competes with cheap raw materials such as scrap paper, straw and rags; that formerly the rags used for this purpose were imported from foreign countries, but, owing to war conditions and consequent inability to procure same from the usual sources at this time, a substitute has been found in the form of redwood bark.

It was further developed that this bark is a very low grade commodity, its value being principally represented by the cost of gathering and loading on cars; that heretofore it has been merely a forest waste and, as such, a serious fire menace.

Complainant testified that this commodity is moved in open gondola cars without being damaged by the elements and that it is not susceptible to injury, consequently rendering carriers practically free from damage claims.

Witness for defendant, in support of its contention that lumber rate of \$1.20 per ton is not properly comparable to bark, testified that the lumber rate was established to meet competition of lumber reaching San Francisco and bay points from Washington, Oregon and coastwise points by water at rate of \$2.00 per 1,000 feet or, on basis of  $3\frac{1}{2}$  pounds per foot, \$1.20 per ton and that the same competition does not exist with respect to bark.

Defendant argues that bark is more analogous to wood than to lumber and should be rated accordingly, as was done in case of the rate under discussion, which is the wood rate converted to a weight denomination on basis of 2,500 pounds per cord.

In the course of hearing, complainant directed attention to rates carried by defendant on tanbark which is of much higher value than redwood bark, the loading qualities being practically the same. A comparison of the redwood bark rates with those for tanbark taken largely from rates mentioned by complainant follows:

Commodity	From	To	Miles (via short line)	Rate per ton	Rate per ton mile	
Bark (except tanbark) c.l. min. 30,000 pounds.	Boulder Creek	Oakland	76	\$1 80	\$0.0237	
	Newell Creek Mill	Oakland	74	1 80	.0237	
	Santa Cruz	Oakland	76	1 80	.0237	
Tanbark, c.l. min. 30,000 pounds.	Newell Creek Mill	San Fran.	74	1 65	.0217	Eff. 11/22/12.
	Boulder Creek	Oakland	76			Prev. rate \$2.50 per cord — approx. \$2.00 per ton.
Tanbark, c.l. min. 30,000 pounds.	Boulder Creek	Santa Clara	39	1 00	.026	Eff. 11/22/12.
						Prev. rate \$1.50 per cord — approx. \$1.20 per ton.
Tanbark, c.l. min. 30,000 pounds.	Santa Cruz	Stockton	116	1 50	.0129	Eff. 4/11/14.
						Prev. rate \$1.70 per ton.
Tanbark, c.l. min. 30,000 pounds.	Santa Cruz	Benicia	101	1 80	.0173	Eff. 1/31 15.
Tanbark, c.l. min. 30,000 pounds.	Monterey	Santa Clara	78	95	.0122	Eff. 11/22 12.
	Santa Cruz	Santa Clara	39			
Tanbark, c.l. min. 30,000 pounds.	Boulder Creek	Redwood	58	1 15	.02	Eff. 11/22 12.
	Santa Cruz	Redwood	58		.02	Prev. rate \$1.75 per cord — approx. \$1.40 per ton.
	Monterey	Redwood	97		.0118	

"Per cord" rates converted to "per ton" on basis of 2,500 pounds per cord, which is method used by carrier in arriving at redwood bark rate under complaint.

Carrier in defense of the rates on tanbark argued that they were granted in the early days when the leather business was first established in California for the purpose of encouraging an industry then in its infancy and for this reason should not be considered in comparison at the present time.

This gives rise to the question as to what is the difference in conditions surrounding the establishment of rates on the two kinds of bark. If low rates were granted to foster the leather industry in its early stages, may not the shippers of redwood bark, with equal justification, expect the same liberal treatment of their commodity, which also contributes

to the establishment of a new industry, and therefore in like need of encouragement on the part of carrier?

It is hardly necessary, however, to decide this point, as the preceding table shows that the existing tanbark rates are of comparatively recent effective date and mostly reductions in the rates previously carried. For instance, rate of \$1.50 per ton from Santa Cruz to Stockton became effective April 11, 1914, superseding rate of \$1.70 per ton. The \$1.80 rate from Santa Cruz to Benicia took effect January 31, 1915. None of the present rates were operative prior to November 22, 1912. While the original tanbark rates may have been established for the purpose of nourishing a new industry, I believe it is quite apparent that those now in effect were fixed at a time when the leather industry in this state was on a firm foundation and that defendant in determining present rates was actuated by entirely different motives.

The transportation company in further defense of redwood bark rate complained of, urges difficulty and expense of operation over the line north of Santa Cruz due to severe grades, long tunnels and meager volume of traffic necessitating light train movement, all of which, while of interest, will not materially affect the issues presented, inasmuch as the same conditions exist in the transportation of lumber and tanbark with which comparison is drawn.

In fixing rate for this commodity it is desired to establish a minimum weight closely approximating the carrying capacity of defendant's equipment to the end that maximum car efficiency may be assured.

The minimum weight for lumber between these points is 30,000 pounds, but the average carloading is 66,380 pounds, which at rate of \$1.20 per ton yields car revenue of \$39.83. For redwood bark the present rate of \$1.80 per ton with minimum of 30,000 pounds gives revenue of \$27.00 per car. It is possible to load redwood bark to approximately 40,000 pounds per car which at \$1.20 per ton will yield \$24.00 car revenue.

There was some discussion at the hearing as to practicability of loading cars to 40,000 pounds from certain points north of Santa Cruz account clearance restrictions of defendant due to tunnels along this route, but carrier does not seem to be clear as to whether this would prevent such loading. This minimum weight will therefore be established with the understanding that carrier will modify same, should it develop that its rules governing car clearances will bring about a conflict.

Upon careful consideration of the evidence submitted, I am of the opinion that the present rate of \$1.80 per ton on redwood bark, minimum 30,000 pounds from Santa Cruz district to Oakland is unreasonable by comparison with rates for tanbark maintained by defendant.



and find a reasonable rate for this commodity between the points mentioned to be \$1.20 per ton, minimum 40,000 pounds.

The following form of order is submitted:

**ORDER.**

The above-entitled case having come on regularly for hearing and the commission being duly apprised in the premises, it is hereby found as a fact that the rate of \$1.80 per ton on redwood bark, carloads, from Santa Cruz district to Oakland is unreasonable and that a rate of \$1.20 per ton is a reasonable rate for the service; and basing its order on the foregoing finding of fact and on the further findings of fact contained in the opinion which precedes this order,

*It is hereby ordered* that the Southern Pacific Company establish a rate of \$1.20 per ton on bark (except tanbark), carloads, minimum 40,000 pounds from Laurel, Glenwood, Felton, Newell Junction, Newell Creek Mill, Ben Lomond, Boulder Creek, Santa Cruz, Aptos and Loma Prieta to Oakland.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the state of California.

Dated at San Francisco, California, this sixth day of September, 1917.

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DECISION No. 4626.

IN THE MATTER OF THE APPLICATION OF THE HOME TELEPHONE COMPANY OF COVINA FOR PERMISSION TO SELL \$10,000.00 PAR VALUE OF ITS 6 PER CENT FIRST MORTGAGE REFUNDING GOLD BONDS AND FOR AN ORDER AUTHORIZING SAID SALE FOR ADDITIONS AND BETTERMENTS TO PLANT.

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Application No. 2833.

*Decided September 6, 1917.*

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BY THE COMMISSION.

**FIRST SUPPLEMENTAL ORDER.**

Home Telephone Company of Covina having applied to the commission for a modification of the original order in the above-entitled matter in the particular hereinafter described, and good cause appearing therefor,

*It is hereby ordered* that the original order contained in Decision No. 4379 of June 6, 1917, be and it is hereby so modified that applicant is authorized to issue \$6,500.00 face value of its 6 per cent first mortgage refunding gold bonds at a price which will net to applicant 95 per cent of the face value thereof. All of the other terms and conditions of said original order shall remain in full force and effect.

Dated at San Francisco, California, this sixth day of September, 1917.

## DECISION No. 4627.

IN THE MATTER OF THE APPLICATION OF PASADENA CONSOLIDATED WATER COMPANY FOR PERMISSION TO ISSUE CERTAIN SHARES OF STOCK.

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Application No. 3124.

*Decided September 8, 1917.*

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Pasadena Consolidated Water Company authorized to issue 214 shares of stock of the par value of \$100.00 per share, part of such stock to be issued in exchange for stock of the Precipice Canyon Water Company, a mutual concern, the balance to be sold at not less than par, proceeds to be applied as part purchase on stock of the same company.

*J. B. Coulston*, for Applicant.

*DEVLIN*, Commissioner.

## OPINION.

In this application, Pasadena Consolidated Water Company asks authority to issue at par 217 shares of its common capital stock of the par value of \$100.00 each for purposes hereinafter indicated.

Pasadena Consolidated Water Company was organized in January, 1912. Its articles of incorporation define the territory within which it may operate. It now proposes to amend its articles of incorporation so as to permit it to sell and distribute water for domestic and irrigation purposes upon 161 additional acres of land owned and controlled by the William Allen Estate Company and Edgar Arthur Allen, Harold Ernest Allen and Walter Irving Allen, trustees, under the will of William Allen, deceased. In order to secure water for the 161 acres, the William Allen Estate Company et al. are willing to deliver to the Pasadena Consolidated Water Company property valued by applicant at \$27,325.00, said property consisting of a tract of land valued at \$2,640.00, a reservoir costing \$15,445.35 and 643 shares of the capital stock of Precipice Canyon Water Company, a mutual company, at \$15.00 per share. Pasadena Consolidated Water Company also agrees to purchase from the William Allen Estate Company et al. 1,118 shares of capital stock of the Precipice Canyon Water Company and from Harold E. Allen, trustee for Annie Hester Allen and Louisa Edith Bowring, 306 shares of the stock of Precipice Canyon Water Company. To acquire this stock, Pasadena Consolidated Water Company proposes to issue 217 shares of its common capital stock.

Of the stock which applicant desires to issue 160 shares are to be delivered to the William Allen Estate Company et al., 7 shares to Walter Irving Allen and 50 shares are to be sold for cash at par. Of the proceeds, applicant will expend \$4,590.00 to acquire the 306

shares of the capital stock of Precipice Canyon Water Company from Harold E. Allen, trustee, and pay \$50.00 to Walter Irving Allen for the balance of the purchase price of seven shares of stock and \$20.00 to the William Allen Estate Company for the balance of the purchase price or stock which is to be acquired from the estate company. From the evidence, it appears that an issue of 214 shares of stock will be ample to meet applicant's needs.

Precipice Canyon Water Company, as above stated, is a mutual water company. It has an authorized stock issue of \$625,000.00 divided into 12,500 shares of \$50.00 each. Of this stock, Pasadena Consolidated Water Company now owns 7,011 shares. Should this application be granted and the company acquire the stock, as above indicated, applicant would own and control more than two-thirds of the outstanding stock of Precipice Canyon Water Company. By the acquisition of the additional stock of the mutual company, applicant will secure the right to one-sixth more of the flow of water in Eaton Canyon than it now controls. Applicant is unable to state how many miner's inches of water it would thus acquire. At the present time, applicant obtains its water from Eaton Canyon and also from wells. It is for the purpose of reducing the pumping expenses that applicant desires to acquire additional stock in Precipice Canyon Water Company.

Attached to the application is an agreement relating to the acquisition of the stock of Precipice Canyon Water Company, the rates to be charged and the service rendered. Applicant does not ask the commission to approve this agreement, nor would the commission be inclined to approve it if applicant were to make such request. Several of the matters covered by the agreement are under the jurisdiction of the Railroad Commission and are generally covered by the rules and regulations of the company, accepted at the commission's office for filing, and subject to amendment as necessity may require.

No stockholder of the Precipice Canyon Water Company appeared at the hearing to protest the granting of this application. The president of the Pasadena Consolidated Water Company testified that so far as he knew no one was objecting and that in his opinion the transfer of the stock would be mutually advantageous to both companies.

While I am inclined to recommend that this application be granted, it is with the specific understanding that the authority to issue the stock by Pasadena Consolidated Water Company shall not be interpreted as a finding of value for the stock of Precipice Canyon Water Company, or any water rights which applicant may acquire by virtue of purchasing the stock of the mutual company.

I herewith submit the following form or order:

**ORDER.**

Pasadena Consolidated Water Company having applied to the Railroad Commission for authority to issue 217 shares of its common capital stock of the par value of \$100.00 each, and a hearing having been held and the commission being of the opinion that the money, property or labor to be procured or paid for by such issue is reasonably required for the purpose or purposes specified in the order and that such purpose or purposes are not in whole or in part reasonably chargeable to operating expenses.

*It is hereby ordered* that Pasadena Consolidated Water Company be and it is hereby granted authority to issue 214 shares of its common capital stock of the par value of \$100.00 each.

The authority hereby granted to issue stock is upon the following conditions and not otherwise:

1. Of the stock hereby authorized to be issued, 160 shares shall be delivered to the William Allen Estate Company and to Edgar Arthur Allen, Harold Ernest Allen and Walter Irving Allen, trustees under the will of William Allen, deceased, as part payment for 1,118 shares of capital stock of the Precipice Canyon Water Company.

2. Seven shares of stock hereby authorized to be issued shall be delivered to Walter Irving Allen as part payment for 160 shares of stock of Precipice Canyon Water Company.

3. Forty-seven shares of capital stock hereby authorized to be issued shall be sold by applicant for not less than par and the proceeds thereof expended for the following purposes:

(a) The amount of \$4,590.00 to acquire 306 shares of the stock of Harold Ernest Allen, trustee for Annie Hester Allen and Louisa Edith Bowring.

(b) Fifty dollars to Walter Irving Allen to pay in part for the 160 shares of stock of Precipice Canyon Water Company.

(c) Twenty dollars to the William Allen Estate Company and Edgar Arthur Allen, Harold Ernest Allen and Walter Irving Allen, trustees under the will of William Allen, deceased, as part payment for the 1,118 shares of capital stock of Precipice Canyon Water Company.

4. The authority hereby granted to applicant to issue stock shall not be interpreted as a finding of value of the stock of Precipice Canyon Water Company or of the rights which applicant or Precipice Canyon Water Company has by virtue of owning and controlling water rights in Eaton Canyon.

5. The stock hereby authorized to be issued shall be issued by applicant only after it has filed with the Railroad Commission a copy of its amended articles of incorporation.

6. Pasadena Consolidated Water Company shall keep separate, true and accurate accounts showing the receipt and application in detail of the proceeds of the sale of the stock hereby authorized to be issued; and on or before the twenty-fifth day of each month the company shall make verified reports to the commission stating the sale or sales of said stock during the preceding month, the terms and conditions of the sale, the moneys realized therefrom, and the use and application of such moneys, all in accordance with this commission's General Order No. 24, which order, in so far as applicable, is made a part of this order.

7. The authority hereby granted shall apply only to such stock as shall have been issued on or before December 20, 1917.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the state of California.

Dated at San Francisco, California, this eighth day of September, 1917.

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DECISION No. 4628.

PHOENIX MILLING COMPANY

*vs.*

SOUTHERN PACIFIC COMPANY.

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Case No. 1061.

*Decided September 8, 1917.*

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A rate of 32.5 cents per 100 pounds on broom corn seed, Vina to Oakland, is held to be excessive when compared with a rate of 14½ cents per 100 pounds on grains of a far higher value, especially when no evidence is introduced tending to show a dissimilarity in transportation conditions.

Defendant directed to establish, within twenty days, a rate of 14½ cents per 100 pounds on broom corn seed, carloads, minimum weight 30,000 pounds, Vina to Oakland, and to refund to complainant the sum of \$54.00 with interest at 7 per cent since May 17, 1916, account unreasonable rate collected on one carload of the above commodity.

*G. J. Bradley*, for Complainant.

*Geo. D. Squires*, for Defendant.

BY THE COMMISSION.

**OPINION.**

Complainant is a corporation engaged in the feed and grain business at Oakland. By complaint filed March 29, 1917, it alleges that the rate of 32½ cents per 100 pounds charged by defendant for the transportation of one carload of broom corn seed from Vina to Oakland, December 2, 1915, was excessive and discriminatory to the extent

that it exceeded a rate of  $14\frac{1}{2}$  cents per 100 pounds. Reparation is asked for in the sum of \$54.00, with interest from May 17, 1916, the date upon which the freight bill was paid.

Shipment moved under Class A rate of  $32\frac{1}{2}$  cents per 100 pounds shown in Southern Pacific Company's Local Freight Tariff No. 711, C. R. C. No. 1515, governed by Western Classification No. 53, C. R. C. No. 112, F. W. Gomph, Agent.

There was contemporaneously maintained between the same points a rate of  $14\frac{1}{2}$  cents per 100 pounds in defendant's Local, Joint and Proportional Tariff No. 793, C. R. C. No. 1761, applying on certain commodities enumerated in Rule 20-B, which, in part, reads:

"Rates named in tariff on grain and grain products (when specific reference is made to this rule), will apply on the following articles, viz:

Grain, whole, cracked, ground, chopped or rolled, not otherwise indexed by name (not including cereal foods, flaked, puffed or toasted and cereal coffee, nor rice of any description), and articles taking grain rates, viz:"

Then follows a long list of commodities entitled to the same rate, including flaxseed, kaffir corn, milo maize, certain articles specified as poultry food and vetch seed which are used for the same purpose and compete with broom corn seed.

On February 1, 1916, this rule was canceled by Rule 20-C and changed to read, in part:

"Grain, viz: Wheat, rye, oats, barley, buckwheat and corn (including kaffir corn and milo maize, but not including popcorn) and feterita, not otherwise indexed by name, whole, cracked, ground, chopped or rolled (not including cereal foods, flaked, puffed or toasted and cereal coffee), and articles taking grain rates, viz:"

Under the changed rule the articles taking grain rates were enlarged and made to include Egyptian corn, melilotus seed and sorghum seed. On August 1, 1916, Rule 20-D added sunflower seed.

On May 3, 1917, subsequent to the filing of this complaint, defendant reduced the rate on the commodity in question to 20 cents per 100 pounds, as per Item No. 1130-1 in Local and Proportional Tariff No. 730, C. R. C. No. 1632.

Item No. 145-A, page 5, Supplement No. 19 to Pacific Freight Tariff Bureau Exception Sheet No. 1-E (F. W. Gomph, Agent), C. R. C. No. 132, reads substantially the same as Rule 20-D heretofore referred to and rates the articles at Class C. The commodity rate of 20 cents per 100 pounds on broom corn seed, established May 3, 1917, is the Class C between Vina and Oakland, though carrier avers that this fact was not considered when the rate was reduced, but it was made 25 cents

per ton over the Chico-San Francisco commodity rate of \$3.75 per ton applying on paddy rice.

The records disclose that broom corn seed is grown in the Sacramento Valley north of Sacramento and in the San Joaquin Valley south of Stockton, and that the production has decreased from 1,146,000 pounds in the year 1900 to 614,250 pounds in 1910.

The value of the shipment herein considered is given as \$20.00 per ton and complainant's witness testified that it was mixed with other articles and used as a poultry food. Defendant's witness testified that the price of broom corn seed ranged from \$20.00 to \$60.00 per ton, depending upon quality, the inferior article being used as poultry food, the superior for planting.

The records further disclose the following prices, per ton, in carload quantities, on commodities embraced in Rule 20-D:

Sorghum seed -----	\$100 00	Melilotus seed -----	\$40 00
Sunflower seed -----	45 00	Vetch seed -----	70 00
*Eastern flaxseed -----	40 00	Egyptian corn -----	45 00
Egyptian wheat -----	45 00	Wheat -----	50 00
Rye and barley -----	50 00	Oats -----	70 00

Kaffir corn and milo maize, \$60.00.

As these grains are given the 14½-cent rate, there appears to be no good reason why broom corn seed, assuming it to be of the same or of a lesser value per ton, should be rated differently, particularly as no evidence was introduced tending to show a dissimilarity in transportation conditions.

Broom corn seed appears under the head of Seed in the Western Classification, with sorghum, millet, sunflower and vetch seed, and is rated the same, Class A, in straight or mixed carloads. Therefore, as the latter commodities are taken out of the classification and given the benefit of the commodity rate of 14½ cents per 100 pounds, there can be no justification in rating broom corn seed differently, for it is well established that classification units are intended to express the relation to one another of weight, space and value.

Complainant also contends that the shipment in controversy was justly entitled to the rate of 14½ cents per 100 pounds, because of the fact that broom corn seed is a sorghum seed, and that sorghum seed is specially mentioned in the articles taking this rate. Corn without qualification is likewise included in the list under Rule 20-D, and it is further contended that all kinds of corn, except popcorn, are entitled to the 14½-cent rate.

Defendant admits that the rate charged was unjust and unreasonable, and this not only appears in the transcript but is proven by the

\*Plus freight.

voluntary reduction of the rate to 20 cents per 100 pounds and the offer to make a reparation refund of \$37.50 based on rate subsequently effective.

Defendant urges that the 14½-cent rate is below normal, due to water influence, therefore would not be a fair measure of the reasonableness of a rate on broom corn seed. But this rate has been in effect a number of years, and while it may have been originally depressed by reason of water competition, the fact remains that recently flaxseed, sunflower seed, melilotus seed, sorghum seed and vetch seed have been added to the Rule 20-D group and no evidence presented to show that water competition forced defendant to take such action.

After fully considering all the facts, we find that the rate of 32½ cents per 100 pounds charged on the shipment involved was unreasonable and discriminatory to the extent that it exceeded the rate of 14½ cents per 100 pounds. We further find that complainant paid and bore the charges on the shipment in controversy at the rate herein found to be unreasonable; that it was damaged to the extent of the difference between the charges paid and the charges which would have accrued at the rate herein found reasonable, and that it is entitled to reparation in the sum of \$54.00, with interest from May 17, 1916, the date upon which charges were paid.

#### ORDER.

A public hearing having been held in the above-entitled case and careful consideration having been given to the evidence presented, and basing the order upon the findings of fact which appear in the opinion preceding this order,

*It is hereby ordered* that the Southern Pacific Company publish and file with this commission, to become effective within twenty days from the date of this order, a rate of 14½ cents per 100 pounds from Vina to Oakland on broom corn seed, in earloads, minimum earload weight thirty thousand (30,000) pounds, which rate is found to be just, reasonable and nondiscriminatory.

*It is further ordered* that the Southern Pacific Company refund to complainant the sum of \$54.00, with interest at the rate of 7 per cent per annum from May 17, 1916, as reparation on account of unreasonable rate charged for the transportation of one earload of broom corn seed from Vina to Oakland.

Dated at San Francisco, California, this eighth day of September, 1917.



## DECISION No. 4629.

IN THE MATTER OF THE APPLICATION OF SAN DIEGO CONSOLIDATED GAS AND ELECTRIC COMPANY FOR AUTHORITY TO ISSUE, SELL AND DISPOSE OF PREFERRED STOCK, BONDS AND NOTES.

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Application No. 3071.

*Decided September 8, 1917.*

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Applicant authorized to issue \$345,500.00 par value of its 7 per cent preferred stock to be sold at not less than par, \$500,000.00 face value of its 5 per cent first mortgage bonds to be sold at not less than 88, and \$400,000.00 face value two-year 6 per cent notes to be sold at not less than 98, provided that of the bonds authorized only \$335,000.00 may be issued at the present time, the balance only after applicant has shown that they may be issued under terms and conditions of its first mortgage. Bonds authorized may be pledged as security for notes at the ratio of 10 to 8, proceeds of securities to discharge notes aggregating \$229,000.00, the balance to discharge accounts payable, and for such other expenditures as the commission may authorize by supplemental order.

*Chickering & Gregory, and Sweet, Stearns & Forward, by Frederick W. Stearns, for Applicant.*

*THELEN, Commissioner.*

**OPINION.**

In this application as amended, San Diego Consolidated Gas and Electric Company asks authority to issue \$345,500.00 par value of its 7 per cent preferred stock, \$500,000.00 of its first mortgage 5 per cent bonds due March 1, 1939, and \$400,000.00 face value of two-year 6 per cent notes. Applicant proposes to sell its preferred stock at not less than par. It proposes to sell its bonds at not less than 88 per cent of their face value plus accrued interest, or to pledge them at not less than 80 to secure the payment of \$400,000.00 two-year 6 per cent notes which are to be sold at not less than 98 per cent of their face value.

In Schedule 4 attached to the petition, applicant reports that during the six months ending June 30, 1917, its net capital expenditures amounted to \$346,075.10. In Schedule 5 attached to the petition, applicant reports that during the year ending July 1, 1918, it will be obliged to expend for capital purposes the sum of \$687,200.00. Because of the expenditures for the six months ending June 30, 1917, applicant in its original application asked authority to issue \$114,300.00 of its preferred stock and \$119,000.00 of its 5 per cent bonds: while to finance the construction during the year ending July 1, 1918, it desired to issue \$231,200.00 of stock and \$373,000.00 of bonds.

On August 27 applicant filed its amended petition asking authority to issue \$400,000.00 face value of two-year 6 per cent notes and to secure the payment of the notes by pledging \$500,000.00 of its 5 per

cent bonds. The proceeds of the notes are to be used for the same purposes against which applicant originally intended to issue bonds. Arrangements have been made for the sale of the major portion of the notes.

The net capital expenditures by applicant for the six months ending June 30, 1917, exclusive of the cost of plants of the Oceanside Gas and Electric Company and Escondido Utilities Company, may be summarized as follows:

<i>Gas department:</i>	Net expenditures.
Production capital -----	\$11,560 25
Distribution capital -----	34,033 79
Total gas department-----	\$45,594 04
<i>Electric department:</i>	
Production capital -----	\$22,255 70
Distribution capital -----	184,650 33
Total electric department-----	\$206,906 03
General capital -----	26,662 89
Interest during construction-----	1,746 86
Total construction -----	\$280,909 82
Net cost of Oceanside and Escondido plants-----	65,165 28
Total -----	\$346,075 10

The estimated expenditures for the year ending July 1, 1918, as reported in Schedule 5 attached to the petition, may be summarized as follows:

<i>Gas department:</i>	
Production -----	\$12,400 00
Transmission -----	121,100 00
Distribution -----	53,000 00
Total gas department-----	\$186,500 00
<i>Electric department:</i>	
Production -----	\$4,600 00
Transmission -----	285,000 00
Distribution -----	205,100 00
Total electric department-----	\$494,700 00
General capital -----	6,000 00
Grand total -----	\$687,200 00

As of June 30, 1917, applicant reports notes payable amounting to \$229,000.00, accounts payable \$93,248.43, amount due Standard Gas and Electric Company on open account \$70,146.87, and amount due H. M. Byllesby & Company on open account \$3,840.86.

Under its first mortgage, San Diego Consolidated Gas and Electric Company may issue bonds equal in amount to 75 per cent of the actual

and reasonable cash cost of permanent extensions, additions and betterments, provided that its earnings from the operation of its plants and properties for the period of 12 consecutive months ending not more than 60 days prior to the application for the certification of bonds, and after deducting from such earnings all operating expenses including taxes, insurance and customary expenditures for current repairs and current maintenance ordinarily chargeable to operating expenses, shall have been in each case equal to at least twice the total annual interest charge on all bonds outstanding, together with the bonds for which application is made and any secured indebtedness, the lien or liens of which shall be prior to the lien of the first mortgage on any property acquired by the company subsequent to March 1, 1909.

The testimony in this proceeding shows that as of June 30, 1917, applicant under its first mortgage would have been permitted to issue \$119,000.00 of bonds. It is estimated that as of September 1 applicant is permitted to issue bonds in the amount of \$335,000.00. If applicant were to issue \$335,000.00 of bonds at this time and pledge them at 80, it could issue notes in the sum of \$268,000.00. The remaining \$132,000.00 of notes can be issued only if applicant deposits with the trustee the sum of \$165,000.00, thereby placing itself in a position to issue bonds in the amount of \$500,000.00. The issue of bonds in excess of \$335,000.00 may be taken care of by a supplemental order in this proceeding.

I herewith submit the following form of order:

**ORDER.**

San Diego Consolidated Gas and Electric Company having applied to the Railroad Commission for authority to issue stock, bonds and notes, and to pledge bonds as collateral to secure the payment of notes as set forth in the foregoing opinion, and a hearing having been held and it appearing that the money, property or labor to be procured by the issue of stock, bonds and notes are reasonably required for the purpose or purposes specified in the order and that such purpose or purposes are not in whole or in part reasonably chargeable to operating expenses or to income.

*It is hereby ordered* that San Diego Consolidated Gas and Electric Company be and it is hereby granted authority to issue \$345,500.00 par value of its 7 per cent preferred stock, \$500,000.00 of its first mortgage 5 per cent bonds due March 1, 1939, and \$400,000.00 face value of two-year 6 per cent notes.

The authority hereby granted is granted upon the following conditions and not otherwise:

1. The stock hereby authorized to be issued shall be sold by applicant for cash at not less than the par value thereof; the bonds at not less than 88 per cent of their face value plus accrued interest, and the

notes for not less than 98 per cent of their face value plus accrued interest, provided that in lieu of selling the bonds applicant may pledge the same to secure the payment of the \$400,000.00 of two-year notes hereby authorized to be issued, the bonds to be pledged in such amount so that the face value of the notes shall never be less than 80 per cent of the face value of the bonds pledged as collateral to secure the payment thereof.

2. Of the bonds hereby authorized to be issued, applicant may pledge at this time bonds in the amount of \$335,000.00, the remaining \$165,000.00 may be pledged only after applicant has furnished the commission with satisfactory evidence showing that it is authorized to issue said bonds under the terms and conditions of its first mortgage, dated March 1, 1909.

3. The proceeds obtained from the issue of stock, notes and bonds shall be used by applicant for the following purposes:

"A." To pay the following notes:

Payee	Date	Due	Per cent	Amount
A. W. Wohlford.....	3/27/1917	9/27/1917	6	\$8,000 00
Southern Trust and Savings Bank, San Diego .....	3/27/1917	9/27/1917	6	16,000 00
Bank of Commerce and Trust Com- pany, San Diego.....	4/21/1917	10/21/1917	6	40,000 00
First National Bank, San Diego.....	5/17/1917	11/17/1917	5½	30,000 00
Merchants National Bank, San Diego.....	5/20/1917	11/20/1917	6	30,000 00
American National Bank, San Diego.....	5/20/1917	11/20/1917	6	30,000 00
Mary M. Jackson, San Diego.....	6/18/1917	12/18/1917	5½	25,000 00
B. M. Frees, San Diego.....	6/18/1917	12/18/1917	6	10,000 00
B. M. Frees, San Diego.....	6/18/1917	12/18/1917	6	10,000 00
B. M. Frees, San Diego.....	6/18/1917	12/18/1917	6	7,500 00
B. M. Frees, San Diego.....	6/18/1917	12/18/1917	6	7,500 00
B. M. Frees, San Diego.....	6/18/1917	12/18/1917	6	5,000 00
B. M. Frees, San Diego.....	6/18/1917	12/18/1917	6	5,000 00
Total .....				\$229,000 00

"B." To pay such part of its current and open accounts payable as may represent capital expenditures, provided applicant has first furnished the Railroad Commission with a detailed statement of such accounts and obtained from the Railroad Commission a supplemental order authorizing the payment thereof.

"C." The remainder of the proceeds may be expended only for such purposes, as the Railroad Commission may hereafter authorize, by a supplemental order or orders in this proceeding.

4. San Diego Consolidated Gas and Electric Company shall keep separate, true and accurate accounts, showing the receipt and application in detail of the proceeds of the sale of bonds, notes and preferred stock hereby authorized to be issued, and on or before the twenty-fifth day of each month the company shall make verified reports to the

Railroad Commission stating the sale or sales of said bonds, notes and preferred stock or the pledge of bonds during the preceding month, the terms and conditions of sale, or pledge the moneys realized therefrom, and the use and application of such moneys, all in accordance with this commission's General Order No. 24, which order, in so far as applicable, is made a part of this order.

5. The authority hereby given to issue bonds and notes shall not become effective until San Diego Consolidated Gas and Electric Company has paid the fee specified in the Public Utilities Act.

6. The authority hereby given to issue bonds, notes and preferred stock shall apply only to bonds, notes and preferred stock issued by San Diego Consolidated Gas and Electric Company on or before June 30, 1918.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the state of California.

Dated at San Francisco, California, this eighth day of September, 1917.

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DECISION No. 4630.

IN THE MATTER OF THE APPLICATION OF SAN DIEGO CONSOLIDATED GAS AND ELECTRIC CORPORATION FOR AN ORDER PRELIMINARY TO A DECLARATION THAT PUBLIC CONVENIENCE AND NECESSITY REQUIRE AND WILL REQUIRE THE EXERCISE BY IT OF THE RIGHTS AND PRIVILEGES TO BE GRANTED TO SAID CORPORATION BY THE COUNTY OF SAN DIEGO.

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Application No. 3146.

*Decided September 8, 1917.*

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Order entered preliminary to the issuance of a certificate declaring that public convenience and necessity require the exercise of rights under a franchise to be obtained from the county of San Diego permitting the construction of electric transmission lines in said county.

*Sweet, Stearns & Forward, by F. W. Stearns, for Petitioner.*

THELEN, *Commissioner.*

OPINION.

San Diego Consolidated Gas and Electric Corporation asks for an order preliminary to a declaration that public convenience and necessity require and will require the exercise by petitioner of the rights and privileges to be granted to petitioner by the county of San Diego by ordinance for which petitioner has applied but which has not as yet been granted.

A public hearing herein was held in San Diego on September 1, 1917.

Petitioner is engaged in the business of generating and producing gas and electric energy and of selling the same in the city of San Diego

and in both incorporated and in unincorporated adjacent territory in San Diego County, the entire territory served having an area in excess of one thousand square miles.

Petitioner has recently purchased the gas and electric properties in the cities of Oceanside and Escondido and proposes to build electric transmission lines to connect the electric systems in these communities and also the territory in and adjacent to Fallbrook, with petitioner's main plant in the city of San Diego.

Petitioner proposes to supply electric energy for all purposes within and in the territory adjacent to said communities and along said transmission lines.

Petitioner also intends to construct a 7,000 kilowatt electric transmission line from the city of San Diego north to the northern boundary line of the county and thence through a portion of Orange County north to a point approximately one-half mile north of San Juan Capistrano, where petitioner will take delivery of electric energy from Southern California Edison Company.

On August 6, 1917, a petition asking that a franchise be granted authorizing petitioner to erect and construct its poles and wires for transmitting and distributing electric energy for all purposes along or upon any and all public streets within the county of San Diego, outside the boundaries of any incorporated city, was filed by petitioner with the board of supervisors of San Diego County. Notice of said application is now being published and the franchise will be sold on September 17, 1917.

No electric energy is being sold in San Diego County by any company other than petitioner herein, except by Del Mar Water, Light and Power Company, which company serves Del Mar and Escondido Mutual Water Company, which company sells electric energy to its stockholders in unincorporated territory adjacent to Escondido. Petitioner does not intend to sell electric energy in the territory served by either of these two companies. Del Mar Water, Light and Power Company purchases its electric energy from petitioner.

Petitioner will hereafter file herein a certified copy of such franchise as the county of San Diego may grant to it, and also the usual stipulation agreeing never to claim a value for the franchise in excess of the amount paid therefor by petitioner to the granting authority.

I recommend that the petition be granted and submit herewith the following form of order:

#### ORDER.

San Diego Consolidated Gas and Electric Corporation having filed herein its petition asking for the order hereinafter set forth and a public hearing having been held, and this proceeding being now ready for decision, the Railroad Commission hereby declares that hereafter, upon the filing herein of a certified copy of an ordinance of the county

of San Diego granting to petitioner a franchise, and of a stipulation, as set forth in the opinion which precedes this order, the Railroad Commission will declare that public convenience and necessity require and will require the exercise by petitioner of the rights and privileges granted to it by such ordinance, subject to such terms and conditions as the Railroad Commission may prescribe.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of California.

Dated at San Francisco, California, this eighth day of September, 1917.

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DECISION No. 4631.

IN THE MATTER OF THE APPLICATION OF ROY M. HAYES AND L. IRWIN, JR., FOR A CERTIFICATE THAT PUBLIC CONVENIENCE AND NECESSITY REQUIRE THE OPERATION OF AN AUTOMOBILE STAGE SERVICE BETWEEN CAMP FREMONT, SAN FRANCISCO AND SAN JOSE.

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Application No. 3112.

*Decided September 8, 1917.*

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BY THE COMMISSION.

**ORDER OF DISMISSAL.**

Petitioners having filed herein their written request that the above-entitled proceeding be dismissed,

*It is hereby ordered* that the above-entitled proceeding be and the same is hereby dismissed.

Dated at San Francisco, California, this eighth day of September, 1917.

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DECISION No. 4632.

IN THE MATTER OF THE APPLICATION OF CITY OF OROVILLE, THAT THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA FIX AND DETERMINE THE COMPENSATION TO BE PAID THE PACIFIC GAS AND ELECTRIC COMPANY FOR THEIR CERTAIN GAS AND ELECTRIC DISTRIBUTING SYSTEMS IN THE CITY OF OROVILLE, BUTTE COUNTY, CALIFORNIA.

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Application No. 3054.

*Decided September 8, 1917.*

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BY THE COMMISSION.

**ORDER OF DISMISSAL.**

City of Oroville having on September 4, 1917, made written request that this application be dismissed without prejudice,

*It is hereby ordered* that this application be and the same hereby is dismissed without prejudice.

Dated at San Francisco, California, this eighth day of September, 1917.

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DECISION No. 4633.

IN THE MATTER OF THE APPLICATION OF ASSOCIATED OIL COMPANY FOR APPROVAL BY THE RAILROAD COMMISSION OF RENEWAL OF APPLICANT'S WHARF FRANCHISE AT GAVIOTA, SANTA BARBARA COUNTY, CALIFORNIA.

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Application No. 3171.

*Decided September 8, 1917.*

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BY THE COMMISSION.

**ORDER.**

The board of supervisors of the county of Santa Barbara having, on August 16, 1897, granted to The Alcatraz Company a certain franchise to construct and operate a wharf extending over the waters of that arm of the sea known as the Santa Barbara Channel, from the southern boundary of the Rancho Nuestra Senora del Refugio, at a point about one mile and a half east of the Gaviota wharf, and on the south shore of the tract of land known as the Cementario Tract, and said franchise having on May 7, 1909, been assigned to applicant, and applicant now proposing to apply to the board of supervisors of the county of Santa Barbara for a renewal of said franchise and having filed this application under section 2906 of the Political Code of this state for the approval of the Railroad Commission to the renewal of said franchise for a period of 25 years,

*It is hereby ordered* that the Railroad Commission does hereby approve the renewal by the board of supervisors of the county of Santa Barbara of said franchise for the period of 25 years.

Applicant shall, within ten (10) days after said renewal is made, file with the Railroad Commission a copy of the renewal as granted by the board of supervisors of said county of Santa Barbara.

Dated at San Francisco, California, this eighth day of September, 1917.



DECISION No. 4634.  
CITY OF EL PASO DE ROBLES  
*vs.*  
MIDLAND COUNTIES PUBLIC SERVICE CORPORATION.

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Case No. 977.

*Decided September 8, 1917.*

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By THE COMMISSION.

**ORDER OF DISMISSAL.**

City of El Paso de Robles having on September 5, 1917, made written request that the complaint in this proceeding be dismissed,

*It is hereby ordered* that the complaint herein be and the same hereby is dismissed.

Dated at San Francisco, California, this eighth day of September, 1917.

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DECISION No. 4635.

IN THE MATTER OF THE APPLICATION OF SAN DIEGO CONSOLIDATED GAS AND ELECTRIC CORPORATION FOR AN ORDER DECLARING THAT PUBLIC CONVENIENCE AND NECESSITY REQUIRE AND WILL REQUIRE THE EXERCISE BY IT OF THE RIGHTS AND PRIVILEGES GRANTED BY THE COUNTY OF ORANGE BY ORDINANCE No. 144.

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Application No. 2827.

*Decided September 11, 1917.*

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Applicant granted a certificate declaring that public convenience and necessity require the exercise of rights under a franchise permitting the construction of a transmission line through Orange County to a junction with lines of Southern California Edison Company, from which applicant proposes to purchase energy, and the construction of distributing lines through territory adjacent to its transmission line.

*Sweet, Stearns & Forward*, by *F. W. Stearns*, for Petitioner.

*THELEN*, Commissioner.

**OPINION.**

San Diego Consolidated Gas and Electric Corporation asks that the Railroad Commission make its order declaring that public convenience and necessity require and will require the exercise by it of the rights and privileges granted to petitioner by Ordinance No. 144 of the county of Orange, adopted on January 16, 1917, and effective fifteen days after its passage.

A public hearing herein was held in San Diego on September 1, 1917.

Petitioner is engaged in the business of generating and producing gas and electric energy and of selling the same for heat, light and power in a territory having an area of at least 1,000 square miles in San Diego County, including the cities of San Diego, East San Diego, Coronado, National City, La Mesa, Chula Vista, El Cajon, Oceanside and Escondido.

Ordinance No. 144 grants to petitioner a franchise to erect and construct poles and wires to transmit electric energy for light, heat and power along or upon all the public streets and highways within a portion of Orange County, more particularly described as follows:

Sections One (1) to Six (6), Eight to Sixteen (16) and Twenty-one (21) to Twenty-five (25), all inclusive, in Township Eight (8) South, Range Eight (8) West, S. B. M., and Sections One (1) to Thirty-five (35) inclusive, in Township Eight (8) South, Range Seven (7) West, S. B. M., and Sections Four (4) to Nine (9) and Sixteen (16) to Twenty (20), all inclusive, in Township Eight (8) South, Range Six (6) West and Sections Two (2), Three (3), Four (4), Nine (9), Ten (10), Eleven (11) and Fifteen (15), in Township Nine (9) South, Range Seven (7) West, S. B. M., Sections One (1) to Three (3), inclusive, Fifteen (15), Twenty-two (22), Twenty-seven (27), Thirty-four (34) to Thirty-six (36), inclusive in Township Seven (7) South Range Eight (8) West, S. B. M., all of Township Seven (7) South, Range Seven (7) West, S. B. M., and Sections Two (2) to Eleven (11), Fifteen (15) to Twenty-two (22) and Twenty-eight (28) to Thirty-three (33), all inclusive, in Township Seven (7) South, Range six (6) West, S. B. M., all in the County of Orange, State of California.

The territory thus described is situated in the southwestern portion of Orange County, adjacent to the northern boundary of San Diego County, and contains approximately fifteen square miles. No other public utility is distributing electric energy in this territory.

Ordinance No. 144 provides that work under the ordinance shall be begun within four months and be completed within three years; that the rights granted by the ordinance shall not be assigned without the consent of the board of supervisors of Orange County; that transmission lines, secondary wires and poles shall be erected only in the manner specified in the ordinance; and that petitioner shall pay to the county of Orange the taxes specified by the Broughton Act.

Petitioner intends under this franchise to construct a 7,000-kilowatt transmission main through the territory affected from the northern boundary line of San Diego County to a point approximately one-half mile north of San Juan Capistrano, in Orange County, at which point petitioner will take delivery of electric energy from Southern California Edison Company under a contract recently consummated and now on file with the Railroad Commission.

Petitioner also intends under this franchise to distribute electric energy for all purposes in the unincorporated town of San Juan Capistrano and adjacent territory, in none of which territory has electric energy heretofore been supplied, and to extend its electric distributing system, as quickly as business develops, throughout the entire territory described in the ordinance.

The petition herein alleges in part as follows:

“That your petitioner proposes to serve the inhabitants within the territorial limits of said franchise at the same rates at which similar service is furnished in other territories now being supplied by your petitioner.”

Petitioner has filed herein a stipulation duly authorized by its board of directors, in form satisfactory to the Railroad Commission, agreeing for itself, its successors and assigns, that it and they will never claim before the Railroad Commission or any other public authority any value for said franchise, for rate making or any other purpose, in excess of the amount paid therefor to the board of supervisors of Orange County, which amount is alleged in the stipulation to be the sum of \$100.00.

I recommend that the petition be granted and submit the following form of order:

#### ORDER.

San Diego Consolidated Gas and Electric Corporation having filed its petition in the above-entitled proceeding asking that the Railroad Commission make the declaration hereinafter set forth, a public hearing having been held, and this proceeding being now ready for decision,

The Railroad Commission hereby declares that public convenience and necessity require and will require the exercise by San Diego Consolidated Gas and Electric Corporation of the rights and privileges granted to said corporation by Ordinance No. 144 of the county of Orange, approved January 16, 1917.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the state of California.

Dated at San Francisco, California, this eleventh day of September, 1917.

## DECISION No. 4636.

IN THE MATTER OF THE APPLICATION OF PACIFIC PUBLIC SERVICE CORPORATION FOR CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY TO FURNISH GAS IN THE COUNTIES OF MENDOCINO AND SONOMA; TO ISSUE STOCK AND BONDS; TO PURCHASE GAS SYSTEM OF UKIAH GAS COMPANY; AND OF UKIAH GAS COMPANY TO SELL SAID SYSTEM.

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Application No. 3001.

*Decided September 13, 1917.*

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The Railroad Commission will not authorize the sale and purchase, through the issuance of securities, of gas properties under a plan whereby the public is required to provide the necessary funds therefor when it is clearly shown by an analysis of the operation of the properties proposed to be transferred that they are unable to earn a return upon the investment.

Issuance and sale of securities for the purpose of constructing and developing gas generating and distributing systems will not be permitted when an investigation of the territory proposed to be served shows that the greatest possible development at the present or in the near future would not provide near an adequate revenue covering interest and depreciation.

Order upon application for permission to transfer properties of Ukiah Gas Company and to issue \$150,000.00 par value of stock and \$300,000.00 face value of bonds held in abeyance for a period of sixty days pending a decision of the promoters of the enterprise as to whether or not they are in a position to and willing to personally invest the sum of \$200,000.00 in their proposed enterprise.

*Charles M. Mannon*, for city of Ukiah.

*Fred W. McConnell*, for city of Healdsburg.

*Hoefler, Cook & Snyder* and *George W. Bishop*, for Applicant.

*LOVELAND*, Commissioner.

**OPINION.**

This is an application by Pacific Public Service Corporation for an order authorizing petitioner to construct and operate an artificial gas system and distribute gas in certain portions of Mendocino and Sonoma counties. Petitioner also asks for authority to acquire the existing gas plant and system of Ukiah Gas Company at Ukiah, and that said Ukiah Gas Company be permitted to sell and convey its said plant and system to petitioner. Petitioner further asks for authority to issue and sell certain stock and bonds and to execute a deed of trust or mortgage to secure an authorized bond issue of \$5,000,000.00, face value.

Specifically the application asks that the commission make its order upon each of the following named points:

1. Declaring that it will, hereafter, upon application, issue a certificate that the present and future public convenience and necessity require, and will require, that said Pacific Public Service Corporation take over and acquire the generating and distributing system of the Ukiah Gas Company, at Ukiah, California, and construct the proposed

gas generating and distributing system covering the territory between the towns of Preston and Windsor, and adjacent territory, Sonoma County, California, as aforesaid, upon such terms and conditions as it may designate, after the said Pacific Public Service Corporation shall have obtained the franchises for which application has been made.

2. Authorizing Ukiah Gas Company to sell, and Pacific Public Service Corporation to purchase, the aforesaid gas system of said Ukiah Gas Company at Ukiah, California.

3. Authorizing the issue and sale of fifteen hundred (1,500) shares of its capital stock of the par value of one hundred fifty thousand (150,000) dollars.

4. Authorizing the execution and delivery of a deed of trust or mortgage in substantially the form submitted herewith to secure an authorized bond issue of five million (5,000,000) dollars, par value, 5 per cent, forty-year, first mortgage bonds, and to issue and sell at this time three hundred thousand (300,000) dollars, par value of said bonds at 90 per cent of par net.

5. Authorizing from the proceeds arising from the sale and disposition of said three hundred thousand (300,000) dollars par value of said bonds, and one hundred fifty thousand (150,000) dollars par value of said stock, the purchase of the aforesaid gas properties, rights and franchises, and the payment of the construction of the gas system between the towns of Preston and Windsor and adjacent territory, Sonoma County, California.

Public hearings were held in this proceeding at Cloverdale on June 28, 1917, and at San Francisco on August 21, 1917, during the course of which evidence was introduced on behalf of petitioner and for the commission.

Petitioner's activities in Mendocino County will be limited for the present, under the plan proposed, to acquiring the existing gas plant and system of Ukiah Gas Company at Ukiah. Under the circumstances, the only benefit which could accrue to the inhabitants of Ukiah and Mendocino County through this transaction would arise only from a more efficient and progressive management of this property. This matter will be referred to later herein.

In Sonoma County petitioner proposes to install an oil gas generating plant at Healdsburg and to distribute such gas in Healdsburg, Lytton, Geyserville, Asti, Cloverdale and Preston to the north and to Windsor and intervening territory to the south. It is planned to connect these several communities with the proposed central plant at Healdsburg by means of a single high pressure gas transmission line.

Sonoma County, with the exception of Santa Rosa, Petaluma and Sebastopol and intervening territory supplied from a central plant at Santa Rosa, is entirely without gas service.

The plan of petitioner contemplates the following capital expenditure in accordance with estimates prepared by Mr. F. C. Millard.

TABLE I.

*Estimated Capital Investment of Pacific Public Service Corporation.*

Existing gas plant and system at Ukiah-----	\$45,870 15	
Proposed extensions to Ukiah gas system-----	5,842 48	
<b>Total for Ukiah -----</b>		<b>\$51,712 63</b>
Proposed gas plant at Healdsburg-----	\$52,286 90	
Proposed H. P. distributing system at Healdsburg-----	56,514 41	
Proposed 3-inch H. P. transmission line, Healdsburg to Cloverdale -----	64,887 88	
Proposed service connections from transmission line----	8,282 40	
Proposed H. P. distributing system at Cloverdale-----	17,894 08	
Proposed H. P. distributing system at Preston-----	2,581 13	
Proposed H.P. distributing system at Windsor-----	14,995 88	
<b>Total -----</b>		<b>\$217,442 68</b>
<b>Grand total -----</b>		<b>\$269,155 31</b>

In connection with Application No. 2868 the commission's engineers made a valuation of the gas plant and system at Ukiah as of April, 1917. This valuation report, which by stipulation is to be considered as being in evidence in this proceeding, is summarized in the following table:

TABLE II.

*Commission's Appraisal of Ukiah Gas Company as of April, 1917.*

Items	Estimated cost to repro- duce new
Landed capital -----	\$1,000 00
Production capital -----	13,219 00
Distribution capital -----	21,030 00
General capital -----	586 00
<b>Total -----</b>	<b>\$35,865 00</b>

The principal difference between the appraisal made by the commission's engineers and that prepared by Mr. F. C. Millard arises from the fact that Mr. Millard allowed 21 per cent for overhead construction expenditures, whereas the commission's engineers used 14 per cent. Other important differences are due to the fact that Mr. Millard included \$3,784.68 for services from property line to meter installed at the expense of consumers, and further included an item of \$3,555.00 for paving over mains not paid for by the company.

There can be no question but that the report of the commission's engineers represents more nearly the fair value of this property for the purpose of this application than does the appraisal of Mr. Millard.

No evidence was introduced as to the depreciated value of the Ukiah gas properties, but it is not probable that the present condition of these properties would exceed 80 per cent of the cost to reproduce.

As to the feasibility of petitioner's combined Ukiah and Sonoma county project, it is necessary to consider the probable result of operating the properties as planned.

Petitioner proposes to establish a uniform rate of \$1.50 per thousand cubic feet for all gas sold at Ukiah and in Sonoma County. The effect of this rate program would be to increase the present Ukiah rates set forth in the following table:

TABLE III.

*Gas Rates of Ukiah Gas Company.*

## REGULAR METER.

5,000 cubic feet and less per month-----	\$1.50 per 1,000 cubic feet
5,000 cubic feet to 10,000 cubic feet per month-----	1.35 per 1,000 cubic feet
10,000 cubic feet to 15,000 cubic feet per month-----	1.25 per 1,000 cubic feet
15,000 cubic feet to 30,000 cubic feet per month-----	1.15 per 1,000 cubic feet

## PREPAYMENT METER.

15,000 cubic feet and over per month-----	\$1.10 per 1,000 cubic feet
Minimum charge, 50 cents per month.	

There is now pending before the commission an application by Ukiah Gas Company for authority to increase the minimum charge for gas in Ukiah from 50 cents to \$1.00, and any other proposed increase in rates and charges would require a further application and showing before the commission as required by law.

Mr. Millard, for petitioner, estimates that 158 new consumers can be added in Ukiah, making a total of 600 for that community, and that the cost of adding these new consumers will be \$5,842.48. It is further estimated by Mr. Millard that the annual revenue per consumer supplied from the Ukiah system will be \$32.00 corresponding to an annual consumption of 21,333 cubic feet of gas per consumer.

In petitioner's brief the estimated annual revenue per consumer of \$32.00 is referred to and is urged as justified by the result of gas operations in Merced, Madera, Hanford, Turlock and Modesto, all towns in the San Joaquin Valley. A much more reasonable basis of comparison is pointed out by Mr. W. J. Hammond of the commission's gas and electric department, whose estimates are based on the actual experience in Ukiah and in the next three nearest gas plants to Ukiah, being the plants at Santa Rosa, Napa and St. Helena.

The average revenue and sales of gas per consumer in the communities considered by Mr. Hammond are as follows:

TABLE IV.  
*Comparison of Revenue and Sales for Year 1916.*

City	Average revenue per consumer	Average gas consumption per consumer
Ukiah -----	\$22 01	15,040 cu. ft.
Santa Rosa -----	24 60	17,000 cu. ft.
Napa -----	23 97	16,600 cu. ft.
St. Helena -----	23 84	11,960 cu. ft.

After careful consideration I am of the opinion that even with the most optimistic view of the situation the probable future sales of gas in Ukiah will not exceed 16,400 cubic feet per consumer per year at an average rate of \$1.50 per 1,000 cubic feet, or an average annual revenue of \$24.60 per consumer.

On the basis of the above figures, which are amply liberal, and assuming that 600 consumers could be obtained, the annual sales of gas in Ukiah would be 9,840,000 cubic feet, from which could be expected an annual revenue of \$14,760.00. If the losses were no greater per mile of main than at present and the company uses are to remain the same as during the year 1916, it would be necessary for petitioner to produce 10,925,000 cubic feet of gas in the Ukiah plant in order to realize the gross revenue of \$14,760.00 above mentioned.

Mr. Millard estimates that the cost of operating the combined system will be 54 per cent of the gross operating revenue and apparently attempts to justify this operating ratio on the basis of the following unit costs:

TABLE V.  
*Estimated Operating Cost of Gas per 1,000 Cubic Feet Sold.*  
(F. C. Millard.)

Production expense:	
Fuel—8 gallons at \$0.034 (\$1.45 per barrel) -----	\$0.272
Labor -----	.025
Steam -----	.008
Water -----	.020
Miscellaneous -----	.020
Total production cost -----	\$0.345
Distribution expense -----	\$0.172
Collections -----	.060
Office expense -----	.238
	<hr/>
Total cost delivered -----	\$0.815

Quotations were submitted by petitioner from the Shell Company of California under date of August 31, 1917, and from the Union Oil Company of California under date of August 28, 1917, indicating that



the price of fuel oil as of these dates was \$1.45 per barrel f. o. b. Martinez, San Francisco or Oleum.

The present contract price of oil as purchased by Ukiah Gas Company is \$1.40 per barrel f. o. b. Ukiah.

A comparison of the actual cost of gas at Ukiah exclusive of interest, depreciation, city franchise and state taxes as reported for the year 1916, not corrected, and the corresponding estimate submitted by Mr. Millard is shown in the following tabulation:

TABLE VI.

*Comparison of Actual Cost of Gas as per Annual Report of Ukiah Gas Company for year 1916 and Estimate of F. C. Millard.*

Item	Reported actual cost per M cu. ft. sold	Millard estimate per M cu. ft. sold
Fuel oil .....	\$0.499	\$0.272
Other production expenses.....	.267	.073
<b>Total production .....</b>	<b>\$0.766</b>	<b>\$0.345</b>
Distribution, commercial and general expense (excluding taxes) .....	.666	.47
<b>Total operating cost.....</b>	<b>\$1.432</b>	<b>\$0.815</b>

It is interesting to note in connection with this matter that Mr. Millard, in the face of the actual records at Ukiah and many other plants similarly situated, estimates that only eight gallons of fuel oil is necessary for each 1,000 cubic feet of 600 B. t. u. gas sold. Assuming a nominal loss of 10 per cent (which is approximately 30 per cent less than the reported loss in Ukiah during 1916) Mr. Millard's fuel oil requirements would correspond to about  $7\frac{1}{4}$  gallons per 1,000 cubic feet of gas manufactured, a record which apparently has never been equaled in California for gas having a heating value of 600 British thermal units per cubic foot. Mr. Millard's testimony is either a most severe censure of present day oil gas manufacture in California or would indicate an almost inconceivable lack of efficiency on the part of the managers and operators of gas properties in this state. The commission has heretofore investigated the cost of constructing and operating many gas plants in California and as a result of these investigations it has found nothing to indicate the degree of managerial and operating incompetence which must be apparent if Mr. Millard's assumptions are correct.

The commission has seldom been moved to adopt any but the most lenient attitude with regard to expert testimony which is apparently biased or misleading and has at all times hesitated to question in its decisions the motives or ability of expert witnesses appearing before it. In this proceeding, however, I feel justified in calling attention to the

fact that the evidence introduced on behalf of petitioner as to probable revenues and expenses is entirely misleading. While I am unwilling to assume that petitioner has deliberately attempted to misinform the commission, I will say frankly that the evidence referred to is of such a nature as to point to this conclusion, or, as the alternative viewpoint, it must be assumed to indicate a too superficial study of the situation.

Bearing in mind the increased price which will probably have to be paid for fuel oil used in the Ukiah plant after the expiration of the present contract and the 2 per cent franchise tax which will have to be paid to the city of Ukiah in the future, I am of the opinion that the maximum net revenue, which it is reasonable to assume will be available for interest and depreciation from the operations of the Ukiah gas plant, will be \$1,600.00.

In view of the facts above stated it would not be proper for the commission to authorize the sale and purchase of the properties of Ukiah Gas Company under any plan by which the public is required to provide the necessary funds, either through the sale of stock or bonds.

With reference to the proposed Sonoma County system of petitioner, we may assume for the purpose of analysis, and in view of the overhead percentages used, that the estimate of petitioner that \$217,442.68 will be required to construct this system is substantially correct. Petitioner's assumption as to the probable number of consumers which would be supplied from this proposed system, the probable gas consumption per consumer and the net revenue which would be available for interest and depreciation are not warranted by the facts.

The number of possible consumers to be supplied with gas from the proposed Healdsburg plant are assumed by petitioner to be as follows:

TABLE VII.

*Estimated Number of Consumers to be Supplied in Sonoma County.*

(F. C. Millard.)

Location	Estimated Population	Estimated number of consumers	Consumers per 1,000 population
Healdsburg .....	3,200	1,000	312.5
Cloverdale .....	1,000	200	200.0
Preston .....	100	26	260.0
Windsor .....	525	150	285.7
Subtotal .....	4,825	1,376	av. 285.2
On transmission line.....		265	
Total .....		1,641	

According to an analysis submitted by Mr. Hammond for the commission, the average number of consumers supplied in 1916 by the four gas plants nearest to the proposed plant at Healdsburg was about 184

per 1,000 of population. The highest number of consumers in proportion to the population was in Napa where the population is about 6,500 and where 1,329 consumers are supplied, or about 204 per 1,000 of population.

I am convinced that petitioner can not reasonably expect, at least for a number of years, to exceed the showing made in Napa and on this basis the maximum number of consumers to be secured in Healdsburg, Cloverdale, Preston and Windsor would be 984. Assuming that petitioner has overestimated the probable number of consumers along the transmission line to the same extent that consumers in the several communities have clearly been overestimated, the number of these consumers would be reduced from 265 to 190. Using the corrected figures, the probable maximum number of consumers of gas to be supplied from petitioner's proposed Sonoma County system would be 1,174 instead of 1,641.

Mr. Millard, for petitioner, estimates the cost of gas in the proposed Healdsburg plant on the same basis which has hereinbefore been referred to in discussing the situation at Ukiah. This information is set forth in Table No. V.

After correcting for the freight on oil from tidewater to Healdsburg, which petitioner has apparently overlooked, and making other necessary modifications in petitioner's estimated cost of gas which have already been discussed in connection with the situation at Ukiah, I find that it would be unreasonable to assume that the net revenue, available for interest and depreciation, from the operation of the proposed Sonoma County system would exceed \$7,300.00.

Considering the entire combined project and assuming that \$259,150.16 represents the total capital expenditure necessary, it is barely possible that when 1,774 consumers are connected a net earning, available for interest and depreciation, of somewhat less than  $3\frac{1}{2}$  per cent could be realized under present conditions.

Public convenience and necessity does not and can not require that private capital engage in a new public utility enterprise which is foredoomed to failure, nor can the public reasonably expect the use, except possibly during time of national emergency, of private property and capital without compensation. On the other hand, if public spirited or charitably-inclined individuals or groups of individuals desire unselfishly to devote their own wealth to the public good, this commission, as a public body, would be the last to criticise such action.

While, as I have already indicated, there is considerable doubt as to the practicability of the enterprise, I have no desire to prevent applicant from carrying out its proposed development, provided the promoters of the enterprise feel confident of its success and are willing to demonstrate such confidence by investing at least \$200,000.00 of their own

money. The testimony does not indicate that they intended to invest any of their own funds.

I would recommend, under the circumstances, that the final decision of the commission herein be postponed for 60 days from date hereof and that within this period of 60 days the promoters of the enterprise submit proof to the commission that they are in a position to invest at least \$200,000.00 of their own money in the plant and system to be purchased and constructed, and, further, are willing to make such investment.

The foregoing opinion is approved and ordered filed as the opinion of the Railroad Commission of the State of California.

Dated at San Francisco, California, this thirteenth day of September, 1917.

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DECISION No. 4637.

IN THE MATTER OF THE APPLICATION OF GENERAL MOTOR TRANSPORTATION COMPANY FOR AUTHORITY TO OPERATE MOTOR BUSES BETWEEN OAKLAND AND SAN JOSE AND BETWEEN SAN JOSE AND PALO ALTO; AND FOR AUTHORITY TO ISSUE STOCK.

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Application No. 3089.

*Decided September 13, 1917.*

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An auto transportation company which proposes to operate a number of freight carrying auto trucks between no fixed termini nor under a regular schedule is not subject to the jurisdiction of the Railroad Commission nor need it secure from the commission a certificate authorizing it to conduct such business.

A company which proposes to install a public utility auto transportation service but which has secured no franchises or permits from any of the municipalities or counties through which it proposes to operate, must first secure all such necessary franchises and permits before the commission will issue its final order authorizing such service.

When an auto transportation company applies for a certificate to operate between two points which, it is admitted, are already receiving adequate service, such certificate will be denied.

Applicant authorized to issue \$40,000.00 par value of its common stock and granted a certificate permitting the operation of motor passenger buses between Oakland and San Jose, provided that it shall first secure all necessary franchises and permits. Permission to operate between San Jose and Palo Alto denied.

*Charles Quayle*, for Applicant.

*R. G. Hudson*, for Davis-Schaub Auto Service Company, Protestant.

*F. L. Smith*, for Western Auto Stage Company, Protestant.

*Anthony Devoto*, for Peerless Stage Association, Protestant.

*Charles Wade*, for Star Auto Stage Association, Protestant.

*J. E. McCurdy*, for Peninsular Rapid Transit Company, Protestant.

*John D. Wheeler*, for Gibson Express Company, Protestant.

LOVELAND, *Commissioner*.

OPINION.

In this application General Motor Transportation Company asks authority to operate motor busses to carry passengers between Oakland and San Jose on the east side of San Francisco Bay and between San Jose and Palo Alto. Applicant also asks authority to issue \$50,000.00 par value of its capital stock at par to acquire equipment.

In addition to its passenger business, applicant would also engage in a general freight drayage business. The testimony shows that this business is not to be conducted between fixed termini or over a regular route. I am, therefore, of the opinion that, under the facts as presented, the Railroad Commission has no jurisdiction over the freight drayage business of applicant.

Applicant was incorporated in June, 1917, with an authorized stock issue of \$250,000.00, divided into 2,500 shares of the par value of \$100.00 each. Of its authorized stock, applicant now seeks authority to issue \$50,000.00 par value.

As above stated, applicant desires to operate motor busses between Oakland and San Jose on the east side of San Francisco Bay, also between San Jose and Palo Alto. To take care of the business between San Jose and Oakland, it would acquire and place in operation six 26-passenger motor busses. Five similar busses are to be operated to take care of the business between San Jose and Palo Alto. A description of the busses which applicant proposes to acquire is contained in its Exhibit No. 6. Unless otherwise directed by the Railroad Commission, applicant will establish an hourly service.

Several auto stage companies and associations were represented at the hearing held upon this application and requested the commission to deny applicant permission to operate between Oakland and San Jose and San Jose and Palo Alto. A statement made by M. R. Monze, president of General Motor Transportation Company, shows that the company has no intention of operating between San Francisco and Palo Alto. In view of this statement, J. E. McCurdy, representing the Peninsular Rapid Transit Company, withdrew his objection to the granting of the application. M. R. Monze also admitted that the equipment and facilities of the Davis-Schaub Auto Service Company, operating between Palo Alto and San Jose, were satisfactory and entirely adequate to take care of the present business. He would enter this territory only in case of increase in business. The evidence offered by applicant, however, does not show any definite prospective increase in business, and I, therefore, recommend that this portion of the application be denied.

F. L. Smith, representing the Western Auto Stage Company, protested against the granting of the application on the ground that his

company is operating between Oakland and San Jose and is about to complete arrangements to acquire new and additional equipment. The evidence, however, shows that the Western Auto Stage Company is not at this time engaged in offering to the general public adequate transportation facilities between Oakland and San Jose. The company is merely operating a car at infrequent intervals between those points. By so doing, it contends that it is complying with the act relating to the operation of transportation companies and may operate in the territory without permission from the Railroad Commission. It is not necessary in this proceeding to pass on this point. It is obvious to me that this application should not be denied on the ground that Western Auto Stage Company is operating between Oakland and San Jose, when that company operates cars at such irregular intervals as is shown by the testimony in this proceeding.

The Peerless Auto Stage Association, representing a number of individuals who are operating twelve 7- or 8-passenger cars between Oakland and San Jose, also protests against the granting of the application. This association is offering a 30-minute service between Oakland and San Jose. The testimony offered by applicant and this protestant on the adequacy of service and cost of operation is conflicting. As I view the situation, it will not be necessary for the commission to determine which of the evidence is the more trustworthy. Applicant intends to establish a service entirely different and distinct from that now being offered by Peerless Auto Stage Association. Instead of operating twelve 7- or 8-passenger cars, applicant will operate six motor busses, each having a seating capacity of 26. In this case the commission is called upon to perform a rather unpleasant duty, that is, authorize competition with parties who have been giving the best service within their means; yet under the act the commission has but one course to pursue. It must see that the public is given the best possible service. The testimony clearly shows that the service which applicant proposes to offer to the public will be an additional service; in some respects it will be superior to that offered by Peerless Auto Stage Association. The busses which applicant proposes to operate are more of the nature of a public vehicle than an ordinary 7-passenger automobile. The rates of applicant and this protestant will be the same.

The testimony shows that applicant has no permits or franchises from any of the municipalities or counties in which it intends to operate. Until such permits or franchises are secured, I do not believe that the Railroad Commission should issue a final order authorizing applicant to operate motor busses between Oakland and San Jose.

Applicant desires authority to issue \$50,000.00 par value of capital stock at not less than 90 per cent of its par value.

Inasmuch as applicant will not be allowed to operate between Palo Alto and San Jose, it will have to acquire but six busses. The cost of each bus is reported at \$4,900.00. Under these circumstances, I believe that an issue of \$40,000.00 of stock will be adequate to meet applicant's needs. Such an amount of stock will enable applicant to pay the entire purchase price at once instead of paying on an installment plan.

M. R. Monze stated that no arrangements had been made for the sale of any stock. The stock is not to be offered to the public generally, but to certain individuals known to M. R. Monze and his associates.

Applicant was unable to definitely assure the commission that it can sell its stock. I believe that the stock should be sold for cash and the proceeds deposited with some bank or trust company and expended only pursuant to supplemental order of the Railroad Commission. I do not believe that the commission should authorize the expenditure of any part of the proceeds until applicant has collected a sufficient amount in cash to purchase and pay for the equipment which it contemplates to use.

In view of the testimony in this proceeding, I believe that applicant should be permitted to operate motor busses, as described in applicant's Exhibit No. 6, between Oakland and San Jose. It is understood that the right to operate between these points shall not be transferred or assigned without an order from the Railroad Commission.

I herewith submit the following form of order:

#### ORDER.

General Motor Transportation Company having applied to the Railroad Commission for authority to operate motor passenger busses between Oakland and San Jose and San Jose and Palo Alto, as indicated in the foregoing opinion, and for authority to issue \$50,000.00 par value of its capital stock, and a hearing having been held and it appearing to the commission that this application should be granted subject to the conditions herein specified.

*It is hereby ordered* that General Motor Transportation Company be and it is hereby authorized to issue \$40,000.00 par value of its common capital stock, provided that none of the stock shall be issued and sold until applicant has furnished the Railroad Commission with satisfactory evidence showing that it has obtained all necessary permits and franchises, as required by this order.

*It is hereby further ordered* that the Railroad Commission hereby declares that public convenience and necessity require General Motor Transportation Company to operate motor passenger busses, similar to those described in applicant's Exhibit No. 6, between Oakland and San Jose, provided that General Motor Transportation Company shall first have obtained from all the cities and counties in which it intends

to operate the necessary permits or franchises, and shall have filed with this commission copies of such permits or franchises, and provided further that the right to operate said busses shall not be assigned or transferred without an order from the Railroad Commission.

*It is hereby further ordered* that that portion of General Motor Transportation Company's application relating to the operation of motor passenger busses between San Jose and Palo Alto be denied without prejudice.

The authority hereby granted is granted upon the following conditions and not otherwise:

1. The stock hereby authorized to be issued shall be sold by applicant for cash at not less than \$90.00 per share.

2. All moneys obtained from the sale of the stock shall be deposited by General Motor Transportation Company in a bank or banks as trust funds, on the express condition that if the total sum of at least \$36,000.00 shall not be deposited on or before December 15, 1917, or at such subsequent date as shall be determined by the Railroad Commission, said moneys shall be repaid to the persons who paid them, either in toto or diminished by the ratable proportion of such expenditures as the Railroad Commission, in the meantime, may have authorized.

3. No part of the proceeds from the sale of the stock shall be expended until applicant has filed with the Railroad Commission copies of all necessary permits and franchises and the Railroad Commission has by supplemental order found said permits and franchises to be satisfactory, and designated the purposes for which the proceeds from the stock may be expended.

4. General Motor Transportation Company shall keep separate, true and accurate accounts, showing the receipt and deposit of all funds secured in payment for or on subscriptions to the stock hereby authorized to be issued; a list of subscribers with the address and amounts subscribed by each, and on or before the twenty-fifth day of each month the company shall make verified report to the Railroad Commission showing the receipt and deposit of all such moneys, the stock issued during the preceding month, the terms and conditions of the issue, all in accordance with the commission's General Order No. 24, which order in so far as applicable is made a part of this order.

5. The authority hereby granted to issue stock shall apply only to such stock as shall have been issued on or before December 15, 1917.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the state of California.

Dated at San Francisco, California, this thirteenth day of September, 1917.



## DECISION No. 4638.

IN THE MATTER OF THE APPLICATION OF PACIFIC ELECTRIC RAILWAY COMPANY FOR CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY TO OPERATE AUTO BUS SERVICE BETWEEN SAN BERNARDINO AND PATTON AND HIGHLAND.

Application No. 3103.

*Decided September 13, 1917.*

Applicant granted a certificate permitting the operation of auto passenger busses between San Bernardino, Patton and Highland and intermediate points, provided that such permit shall not be transferable without permission of this commission and that all necessary franchises are secured from local authorities.

*Wm. Guthrie*, for city of San Bernardino.

*Robt. G. Gortner*, for applicant.

GORDON, Commissioner.

## OPINION.

This proceeding is an application by the Pacific Electric Railway Company for a certificate of public convenience and necessity to operate auto bus service between the city of San Bernardino, Patton and Highland and intermediate points, under the provisions of section 5, Chapter 213, Statutes 1917.

A public hearing was held at San Bernardino September 4, 1917, and the matter was duly submitted and is now ready for decision.

The applicant having purchased the auto bus business heretofore known as the Highland Transportation Line, operated between the above-named points by H. H. Eastwood, petitioned this commission for a certificate of public convenience and necessity to operate such line. Applicant proposes to use in this service three specially constructed busses known as the trailer type, with six wheels, equipped with 40 horsepower Case engines and having a seating capacity of seventeen (17) passengers each.

At the hearing it was stated that there is no competition in the territory to be served other than applicant's electric line and that applicant proposed to honor tickets reading between these points via either the bus line or the electric line, at option of passenger.

There has been no protest against the issuance of a certificate of public convenience and necessity as requested by applicant. In consideration of the evidence in this proceeding, I am of the opinion and find as a fact that the service proposed to be established will furnish adequate and convenient transportation facilities for the handling of passengers between the points to be served and that the application should be granted.

I recommend the following form of order:

**ORDER.**

A public hearing having been held in the present application and the commission being duly advised in the premises,

*It is hereby declared* that public convenience and necessity require the operation by Pacific Electric Railway Company of an auto bus service between San Bernardino, Patton, Highland and intermediate points, provided this certificate is not assignable without the consent of the Railroad Commission; and provided, further, that Pacific Electric Railway Company shall have obtained from this commission a supplemental order reciting that said company has filed with the Railroad Commission a copy of all necessary permits or franchises from the local authorities over whose public highways the company proposes to operate.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the state of California.

Dated at San Francisco, California, this thirteenth day of September, 1917.

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DECISION No. 4639.

IN THE MATTER OF THE APPLICATION OF HUMBOLDT TRANSIT COMPANY FOR PERMISSION TO ISSUE BONDS.

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Application No. 3143.

*Decided September 13, 1917.*

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Applicant authorized to issue its one-day 6 per cent note in the sum of \$20,000.00, and to issue and pledge as security therefor \$40,000.00 of its first mortgage bonds, such note to be issued for the purpose of refunding a 7 per cent note of a like face value.

*Carter P. Pomeroy*, for Applicant.

*C. P. Cutten*, for Gwynedde A. Tower and Valentine Grossetti, Protestants.

BY THE COMMISSION.

**OPINION.**

This is an application for authority to issue a one-day note in the sum of \$20,000.00 with interest at the rate of 6 per cent per annum, payable to the First National Bank of Eureka, and to issue and pledge 40 Humboldt Transit Company first mortgage 5 per cent bonds of the face value of \$40,000.00 to secure the payment of the note. The note

is to be issued to take up a similar note now held by said bank, but bearing interest at the rate of 7 per cent per annum.

A public hearing upon this application was held by Examiner Westover in San Francisco.

The note which applicant desires to refund represents the unpaid portion of an indebtedness of approximately \$100,000.00 incurred prior to the effective date of the Public Utilities Act. Witness for applicant testified that the proceeds were used for additions to the company's plant and system.

Authority for the issue of this note was originally granted by this commission in Decision No. 930, dated September 3, 1913 (Vol. 3, Opinions and Orders of the Railroad Commission of California, page 542).

In a supplemental order, dated February 3, 1915, Decision No. 2122 (Vol. 6, Opinions and Orders of the Railroad Commission of California, page 138), the commission authorized applicant to issue a renewal note to be executed jointly by Humboldt Transit Company and William Butterworth, its president. The note which applicant now desires to issue is for the purpose of refunding this latter note and will be similarly executed as a joint note.

Although the note now outstanding bears interest at the nominal rate of 7 per cent per annum, the testimony shows that for the past eighteen months by agreement of the bank, applicant has paid interest at the rate of 6 per cent instead of 7.

Prior to the hearing of the present application a written protest to the pledge of any bonds by applicant was filed by Gwynedde A. Tower and Valentine Grossetti. At the hearing these protestants were represented by counsel.

Protestants appeared to have been under the impression that the granting of this application would increase applicant's outstanding bonded indebtedness. As this is not the case and as applicant's only purpose is to continue in effect the indebtedness now outstanding until such time as the same can be repaid, it does not appear that protestants will be placed in any different position from that which they now occupy by the granting of this application. This fact was explained to counsel for protestants, who appeared satisfied that no substantial injury would be done his clients by the granting of the petition.

#### ORDER.

Humboldt Transit Company having applied to this commission for authority to issue a one-day promissory note payable to the First National Bank of Eureka in the sum of \$20,000.00, bearing interest at 6 per cent per annum and secured by pledge of \$40,000.00 first mortgage 5 per cent bonds for the purpose of renewing a note in a similar

amount now outstanding, and a public hearing having been held, and it appearing to this commission that the money to be secured by such issue is reasonably required for the purpose specified in the order, which purpose is not in whole or in part reasonably chargeable to operating expenses or to income,

*It is hereby ordered* that Humboldt Transit Company be and it is hereby authorized to issue a 6 per cent one-day note payable to the First National Bank of Eureka in the principal sum of \$20,000.00 and to issue and pledge as collateral security for said note, \$40,000.00 of its first mortgage 5 per cent bonds.

This authority is granted upon the following condition and not otherwise:

1. Said note shall be issued to take up a note of the same face value issued by applicant to the First National Bank of Eureka under authority of this commission's Decision No. 2122, dated February 3, 1915.

2. The bonds hereby authorized to be issued shall be pledged in such a ratio that the face value of the note shall never be less than 50 per cent of the face value of the bonds pledged. Upon the payment of the note hereby authorized to be issued or any part thereof the bonds pledged as collateral, or a proportionate amount if only part of the note be paid, shall be returned to applicant's treasury and thereafter issued only upon order of the Railroad Commission.

3. Humboldt Transit Company shall keep separate, true and accurate accounts showing the receipt and application in detail of the proceeds of the sale of the note herein authorized to be issued; and on or before the twenty-fifth day of each month the company shall make verified reports to the Railroad Commission stating the sale or sales of said notes during the preceding month, the terms and conditions of the sale, the moneys realized therefrom, and the use and application of such moneys, all in accordance with this commission's General Order No. 24, which order, in so far as applicable, is made a part of this order.

4. The authority herein given to issue said promissory note shall apply only to such note as shall have been issued prior to January 31, 1918.

Dated at San Francisco, California, this thirteenth day of September, 1917.

## DECISION No. 4640.

IN THE MATTER OF THE APPLICATION OF CENTRAL CALIFORNIA GAS COMPANY FOR AN ORDER THAT HEREAFTER A CERTIFICATE WILL ISSUE FINDING THAT PUBLIC CONVENIENCE AND NECESSITY WILL BE SUBSERVED BY THE EXERCISE BY APPLICANT OF FRANCHISES IN THE COUNTIES OF KERN, TULARE AND KINGS. FOR THE CONSTRUCTION OF A NATURAL GAS TRANSMISSION SYSTEM EXTENDING FROM HILLMAN COMPRESSOR STATION OF THE STANDARD OIL COMPANY, LOCATED ON SECTION 36, TOWNSHIP 31 SOUTH, RANGE 23 EAST, IN KERN COUNTY NORTH TO CORCORAN IN KINGS COUNTY TO HANFORD IN KINGS COUNTY AND TO TULARE IN TULARE COUNTY, SAID FRANCHISES HAVING HERETOFORE BEEN APPLIED FOR.

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Application No. 2812.

*Decided September 13, 1917.*

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There is sufficient reason for dismissing a petition for a certificate permitting the construction of a natural gas transmission main when the applicant for such certificate can not show that it has a possible supply available or that natural gas is obtainable by it at any price.

Subsequent to the filing of the above application the plants of applicant having been placed in the hands of a receiver, which receiver does not desire to proceed with the construction work as proposed by applicant, petition dismissed.

LOVELAND and DEVLIN, *Commissioners.*

**SUPPLEMENTAL OPINION.**

On July 21, 1917, the commission issued its opinion in the above-entitled proceeding and pointed out that, while the evidence heretofore introduced did not warrant an order granting the application herein, the welfare of the communities served by petitioner was of such concern to the commission that it was deemed proper to permit the filing of additional information. Thirty days were allowed within which time petitioner was to file certain specific data relative to the availability and cost of natural gas to petitioner, the cost of installing a natural gas line from Kern County, an estimate of probable cost of operation, an estimate of the amount of natural gas which could be sold, and a definite statement of the price at which petitioner proposes to sell natural gas. A portion of this information has been filed by petitioner in a fairly satisfactory form, and indicates several marked differences from the facts as alleged in the application. These differences may be summarized as follows:

TABLE I.

*Comparison Between Prices and Figures Set Forth in Application No. 2812 and Those Established in Compliance with the Commission's Opinion Herein.*

Item	Set forth in application	Result of verification
Availability and cost of natural gas at receiving plant in Kern County-----	8¢ per Mcu.ft.	No definite information. Possibly was available in May, 1917, at an approximate cost of 15 cents per M cubic feet.
Length of proposed gas transmission line -----	48 miles	40.6 miles.
Cost of second-hand 4" O. D. casing, f.o.b. Porterville -----	18¢ per ft.	40 cents per foot.
200,000 cubic feet second-hand holder for Porterville -----	\$13,000 00	Not obtainable.
750,000 cubic feet second-hand holder for Visalia -----	\$35,000 00	Not obtainable.

Petitioner has failed entirely to show that natural gas is available in the quantity required, and has apparently been unable to obtain a price quotation for natural gas to be supplied by Valley Natural Gas Company or by any other producer of that commodity. While it is true that in May, 1917, petitioner received a letter from Valley Natural Gas Company in which a tentative rate of 15 cents per thousand cubic feet was quoted, this letter clearly indicated that, in order to supply petitioner from its present transmission line, it would be necessary for Valley Natural Gas Company to discontinue the supply of natural gas to certain of its consumers in order to supply petitioner's needs.

There is nothing before the commission at this time which would warrant the conclusion that natural gas is available to petitioner at any price, and this fact alone is sufficient justification for dismissing the application herein. In this connection it may be well to point out that the commission could not reasonably be expected to grant the present application under conditions which would require, in effect, the pre-judging by the commission of what its action would be in the event that petitioner should, at some future time, initiate proceedings to obtain a supply of natural gas.

Petitioner's estimate of the probable cost of installing the high pressure gas pipe line from a point in Kern County to the point of connection with petitioner's high pressure transmission system, was based upon the assumption that second-hand pipe would be available for this work at a cost of 18 cents per foot, f. o. b. Porterville. The actual quotations which petitioner secured in compliance with the commission's opinion herein, specified a price of 40 cents per foot, f. o. b. Porterville, for second-hand 4-inch O. D. casing. At least one of these

quotations is subject to a satisfactory showing on the part of petitioner as to its ability to pay drafts against bills of lading as presented.

The two second-hand holders which petitioner claimed to be able to purchase and install for \$13,000.00 and \$35,000.00, respectively, were found, upon further investigation by petitioner, to be unobtainable. Petitioner suggested that a certain 200,000 cubic foot, second-hand holder might be obtainable, but that without a certificate of public convenience and necessity it would be useless to try to secure the same.

Petitioner has submitted a detailed estimate which sets forth that 323,032,200 cubic feet of gas can be sold by petitioner at an average rate of 91 cents per thousand cubic feet, and alleges that there is a demand and market for that quantity of gas within the territory tributary to petitioner's present system. Petitioner's estimates as to the probable demand for natural gas in the territory adjacent to its present system are apparently based upon the use of natural gas at Bakersfield. It should be unnecessary to point out that the amount of gas which could be sold in any territory is dependent upon the heating value of the gas and upon the price at which it is available to the consumers. The top rate in Bakersfield is 70 cents per thousand cubic feet, and the average revenue during 1916 was somewhat less than 49 cents per thousand cubic feet. The rates which petitioner proposes to establish for natural gas in Tulare County vary from a top rate of \$1.50 per thousand cubic feet to 50 cents per thousand cubic feet where the monthly consumption exceeds 60,000 cubic feet. These rates, it is assumed by petitioner, will yield an average revenue of 91 cents per thousand cubic feet. In view of the facts herein stated, it must be at once obvious that the demand for natural gas in petitioner's territory, at the rates which petitioner proposes to establish, will be very much less than the average demand in Bakersfield where the established rates are approximately 50 per cent of those which petitioner proposes to establish.

If there were no other reason than that found in petitioner's own showing in this proceeding, the commission could not do otherwise than dismiss the present application. However, since the commission issued its opinion herein a receiver has been appointed by the Superior Court of Tulare County, which receiver is directed to take possession of and operate the properties of Central California Gas Company.

On August 4, 1917, the commission communicated with Mr. S. Mitchell, receiver, relative to the application herein, and under date of August 6, 1917, the commission was advised by said receiver, through his attorneys, that he did not feel called upon to undertake to inaugurate such a radical change in the business of the company as contemplated in this application, that no funds are available to the receiver for such purpose, and that, even if the funds were available, he would not

feel justified in taking the action contemplated in the application unless it clearly appeared that the immediate needs of the company required such action, and the people who have their money invested in the company request such action after obtaining the approval of the commission.

In view of all the facts as hereinbefore set forth, we are of the opinion that the application herein should be dismissed, and we recommend the following form of order:

**ORDER.**

A public hearing having been held in the above-entitled matter, and the same having been submitted and being now ready for decision,

*It is hereby ordered* that the above-entitled action be and the same is hereby dismissed.

The foregoing opinion and order is hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this thirteenth day of September, 1917.

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Decisions Nos. 4641, 4642 and 4643, grade crossings; not printed. See end of volume.

**DECISION No. 4644.**

**IN THE MATTER OF THE APPLICATION OF F. DALIDIO AND TOGNINI & GHEZZI, FOR AN ORDER OF THE RAILROAD COMMISSION ESTABLISHING RATES FOR TELEPHONE SERVICE.**

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Application No. 2770.

*Decided September 14, 1917.*

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Present schedule of telephone rates being found noncompensatory following revised schedule established to become effective within thirty days: party line service \$1.00 per month; same where instruments are owned and maintained by subscribers 75 cents per month; rural line service where lines are owned and maintained by subscribers \$3.00 per year.

*Charles Ghezzi*, for Applicants.

BY THE COMMISSION.

**OPINION.**

Florino Dalidio and Tognini & Ghezzi, operating a telephone system in and around Cayucos, San Luis Obispo County, apply for an order establishing rates for telephone service. A public hearing in the matter was held by Examiner Westover at Cayucos.

On March 12, 1917, by its order, Decision No. 4179 in Application No. 2744, the Railroad Commission authorized the transfer by Joseph A. Righetti to Florino Dalidio, his partner, of his half interest in a certain telephone system formerly operated under the name of Righetti



Telephone Company in the town of Cayucos and vicinity and the transfer of the partnership property by Mr. Dalidio to a new partnership consisting of A. B. Tognini, Charles Ghezzi and Florino Dalidio for the purpose of consolidating the ownership and operation of the Righetti Telephone Company with that of another system which was being operated in the same locality by Tognini & Ghezzi under the name of Tognini & Ghezzi Telephone Company. The present application seeks the establishment of rates for the consolidated system.

Both of the former systems provided rural line service only. The rates heretofore in effect by Mr. Righetti were \$1.00 per month for the first telephone and 75 cents per month for additional telephones where the company owned and maintained the lines and telephones, and 50 cents per month when the subscribers owned and maintained their own telephones. The rates of Tognini & Ghezzi have been \$1.00 per month except to two patrons whose service was originally provided by another company for \$3.00 per year each, which rates have been continued by Tognini & Ghezzi.

The accounts of neither of these systems appear to have been maintained heretofore in such manner as would enable accurate information to be presented to the commission with reference either to income or investment. To the time of consolidation separate books had not been kept for the telephone systems. The items were kept in the books of the general stores conducted by the owners in each case, and have been mingled with store items in such manner that they can not well be separated. However, subsequent to the hearing, statements of estimated income and expenditures for the year 1916 for both systems, have been presented. No annual depreciation is provided for in either statement. The statements show the following:

*Righetti Telephone Company.*

Subscribers' station revenues-----	\$1,011 00	
Toll service revenues-----	30 00	
		\$1,041 00
Operating expenses -----		745 57
		<hr/>
Net operating income-----		\$295 43

*Tognini & Ghezzi Telephone Company.*

Subscribers' station revenues-----	\$510 00	
Toll service revenues-----	34 19	
		\$544 19
Estimated operating expenses-----		480 00
		<hr/>
Estimated net operating income-----		\$64 19
		<hr/>
Net income Righetti system-----		\$295 43
Net income Tognini & Ghezzi system-----		64 19
		<hr/>
Net income both systems-----		\$359 62

In operating the consolidated system, items of \$240.00, operator's salary, and \$120.00 rent, will be eliminated and probably other economies in operation, of a relatively small amount, can be effected.

Applicants state that the original cost of the Righetti system, with about 86 stations, was approximately \$3,500.00, and of the Tognini & Ghezzi system with 41 stations, was approximately \$3,000.00, a total of \$6,500.00 for the two systems. They state that in operation some of the present lines will be abandoned where the lines of the two companies are now parallel, though to what extent is not definitely known.

Investigation was made by the Railroad Commission's engineers after the hearing and report submitted showing an estimated reproduction cost new of the probable operative property amounting to \$5,677.60; the average age of the plant about nine and one-third years, the average rate of depreciation about 5 per cent per annum by the straightline method and an estimated reproduction cost new less accrued depreciation of \$3,030.98. The physical condition of the lines is poor and a considerable amount of reconstruction will probably become necessary in the near future.

Applicants request the establishment of the rates found in the order. These rates will eliminate discrimination and from the incomplete data at hand appear to be just and reasonable. At the time of the hearing on the consolidation of the two systems in February last, applicants agreed to keep separate accounts of their telephone operation. By the close of the year the justness of the rates to all concerned under the new operating conditions can be better determined, if then desired, and data of great value to applicant and the commission should be available from this source. Some lines have as many as twenty subscribers' stations attached, resulting in poor service. Applicants expressed an intention to remedy this condition when it was determined from operation how it could best be done and what duplicated lines should be abandoned. They should also consider the establishment of exchange limits and provision for additional classes of service within such limits at different rates, all tending to improve the service. Ownership of all equipment by the utility will also tend to uniformity in rates and simplicity in operation. With the incomplete information at hand, we do not, however, make such provision at this time.

#### ORDER.

F. Dalidio and Tognini & Ghezzi having applied to the Railroad Commission for an order establishing telephone rates upon their telephone system in and about Cayucos, San Luis Obispo County, and a public hearing having been held,

*It is hereby found* that the rates heretofore charged for such telephone service are discriminatory and unreasonable and that the rates hereinafter provided appear to be reasonable and just, and basing its conclusion thereon,

*It is hereby ordered* by the Railroad Commission of the state of California that said applicants be and they are hereby authorized to file schedule of rates, rules and regulations within thirty (30) days and immediately thereafter to collect and receive the following rates:

For party line service where all equipment is owned and maintained by the utility-----	\$1 00 per month
For party line service where telephone instruments are owned and maintained by subscribers -----	75 per month
Rural line service where telephone and lines are owned and maintained by subscribers-----	3 00 per year

Dated at San Francisco, California, this fourteenth day of September, 1917.

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Decision No. 4645, grade crossing; not printed. See end of volume.

DECISION No. 4646.

THOMAS CAIN

v's.

MONO LAKE LUMBER COMPANY.

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Case No. 1132.

*Decided September 14, 1917.*

BY THE COMMISSION.

**ORDER DENYING PETITION FOR REHEARING.**

The complainant in the above-entitled proceeding having filed herein a petition for rehearing on Decision No. 4624, made and entered on September 6, 1917, in the above-entitled proceeding, and careful consideration having been given thereto and no good reason appearing why a rehearing should be held,

*It is hereby ordered* that the petition of complainant be and the same is hereby denied.

Dated at San Francisco, California, this fourteenth day of September, 1917.

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DECISION No. 4647.

IN THE MATTER OF THE APPLICATION OF SANTA BARBARA TELEPHONE COMPANY FOR MODIFICATIONS AS TO TIME AND CONDITIONS OF COMPLIANCE WITH CHAPTER 600 OF THE LAWS OF THE STATE OF CALIFORNIA, APPROVED JUNE 1, 1915, AND CHAPTER 499 OF THE LAWS OF THE STATE OF CALIFORNIA, APPROVED APRIL 22, 1911.

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Application No. 2790.

*Decided September 19, 1917.*

Applicant granted an extension of time to and including June 30, 1919, in which to comply with the provisions of chapters 499 and 600, provided that at least two-thirds of such work shall be completed on or before June 30, 1918, and entire work by June 30, 1919.

A telephone company operating toll lines is exempted from the provisions of the above-numbered chapters in regard to horizontal clearances in so far as its telephone toll lines are concerned.

*Pillsbury, Madison & Sutro*, by *H. D. Pillsbury* and *James T. Shaw*,  
for Applicant.

*J. Morgenthaler*, for Pacific District Council No. 1, I. B. E. W.

GORDON, *Commissioner*.

#### OPINION.

This is a petition for an order extending the time for compliance with the provisions of chapter 499, laws of 1911, as amended by chapter 600, laws of 1915, referring to the construction, reconstruction, maintenance and use of electric poles, wires, cables and appliances. Petitioner also asks for an order exempting it from compliance with the provisions of section 1 (*a*) of the statute referring to horizontal clearances in so far as petitioner's telephone toll lines are concerned.

A public hearing in this proceeding was held in San Francisco on April 24, 1917.

For a statement of the law governing proceedings of this character and of the principles guiding the Railroad Commission in its decisions therein, apart from the matter of exemption of telephone toll lines from the provisions of the statute with reference to horizontal clearances, reference is hereby made to the decision rendered on September 26, 1916, in Application No. 2222, Los Angeles Gas and Electric Corporation et al. For a statement of the law governing exemptions from the provisions of the statute in so far as horizontal clearances of telephone toll lines are concerned, and of the facts bearing on such exemption, reference is hereby made to the decision rendered on September 30, 1916, in Application No. 2109, The Pacific Telephone and Telegraph Company et al. Petitioner asks that in so far as the matter of exemption from the provisions of section 1 (*a*) of the statute, in so far as the horizontal clearances of telephone toll lines are concerned, its petition might be decided on the evidence on this point introduced by The Pacific Telephone and Telegraph Company in Application No. 2109, which request was granted.

Petitioner is engaged in a general telephone and telegraph business throughout Santa Barbara County and owns and operates local telephone exchanges in addition to telephone toll lines throughout the county. It purchased its property from The Pacific Telephone and Telegraph Company, Home Telephone and Telegraph Company of Santa Barbara and Home Telephone and Telegraph Company of Santa Barbara County on December 1, 1916.

Petitioner represents that so far as that portion of its property which was formerly owned by The Pacific Telephone and Telegraph Company is concerned, the Pacific company has taken every step

essential to compliance with the intent and purpose of the statute and has completed from 50 to 60 per cent of such reconstruction as was necessary to comply with the statute. It represents, further, that from 30 to 40 per cent of the property of its predecessors, Home Telephone and Telegraph Company of Santa Barbara and Home Telephone and Telegraph Company of Santa Barbara County, requiring reconstruction to comply with the statute, had also been completed prior to the acquisition of the property by petitioner. That since petitioner acquired these various properties, it has completed approximately 2 per cent of the remaining infractions. It represents, further, that to take such further steps immediately as would be necessary for complete compliance with the statute would entail an expenditure of approximately \$21,000.00, exclusive of its telephone toll lines, and asks that it be granted an extension of time to January 1, 1924, for the completion of this work. The infractions which remain to be corrected consist principally of the following:

- Horizontal separation at poles.
- Horizontal separation from foreign poles or wires.
- Separation from and between electric light wires.
- Insulating guys.
- Insulation of vertical runs on poles.
- Reenforcing messenger clamps.

In so far as that portion of petitioner's property which it acquired from The Pacific Telephone and Telegraph Company is concerned, the commission has heretofore rendered its decision, hereinabove referred to, granting an extension of time to and including June 30, 1919, on condition that at least one-third of the reconstruction work necessary to be done shall be completed on or before June 30, 1917, at least two-thirds on or before June 30, 1918, and the entire work on or before June 30, 1919, inclusive of the property which it then owned in Santa Barbara County and which has since been acquired by petitioner.

In so far as the property which petitioner has acquired from the Home Telephone and Telegraph Company of Santa Barbara and from the Home Telephone and Telegraph Company of Santa Barbara County is concerned, the commission consented to withhold action pending the outcome of negotiations which were then under way looking forward to a consolidation of telephone properties in Santa Barbara County.

In so far as the present proceedings are concerned, the commission's order herein will have reference only to that portion of petitioner's property which it acquired from the two Home companies hereinabove referred to.

Petitioner at the time of the hearing in this proceeding could not present a statement segregating the total cost of reconstruction as between the property formerly owned by The Pacific Telephone and

Telegraph Company and that formerly owned by the Home companies. Subsequent to the hearing, however, petitioner has submitted a statement covering the necessary reconstruction of the properties of the former Home companies. This statement represents that the cost of reconstructing this portion of its property, exclusive of telephone toll lines, will be \$12,747.97. The commission's engineers have carefully examined this statement and have made an inspection on the ground for the purpose of determining whether or not the statement reasonably represents the cost of the necessary reconstruction. It appears from this investigation that petitioner has included in this statement the cost of doing certain work outside of incorporated territory, principally in the city of Montecito, which the statute does not require to be reconstructed. The reconstruction thus included by petitioner, together with a small amount which should have been allowed for salvage, amounts to approximately \$2,500.00, which, in our opinion, may properly be excluded from the estimated total cost of reconstructing that portion of petitioner's property not already included in the order of the commission above referred to.

According to the testimony, petitioner could with its present force, if the work were immediately undertaken and continuously carried forward, complete all of the necessary reconstruction within a year and a half. It appears, therefore, that since the commission has heretofore granted The Pacific Telephone and Telegraph Company an extension of time to and including June 30, 1919, for the completion of its reconstruction, inclusive of the property which it then owned in Santa Barbara County, petitioner should be granted a similar extension for the reconstruction of its lines, exclusive of its telephone toll lines.

For the reasons stated in the decision rendered on September 30, 1916, in Application No. 2109, The Pacific Telephone and Telegraph Company et al., we are of the opinion that the petitioner herein should be exempted from the provisions of section 1 (a) of the statute referring to horizontal clearances of telephone toll lines.

We submit the following form of order:

**ORDER.**

Santa Barbara Telephone Company having applied for an order extending the time within which to comply with the provisions of chapter 499, laws of 1911, as amended by chapter 600, laws of 1915, and for an exemption from the provisions of said statutes in so far as horizontal clearances of telephone toll lines are concerned, and a public hearing having been held,

*It is hereby ordered* as follows:

(1) Santa Barbara Telephone Company is hereby granted an exemption from the provisions of section 1 (a) of chapter 499, laws of 1911,

as amended by chapter 600, laws of 1915, in so far as telephone toll lines are concerned.

(2) The time within which petitioner herein shall reconstruct that portion of its existing system which was acquired on December 1, 1916, from Home Telephone and Telegraph Company of Santa Barbara and Home Telephone and Telegraph Company of Santa Barbara County, so as to comply completely with the provisions of chapter 499, laws of 1911, as amended by chapter 600, laws of 1915, apart from horizontal clearances in connection with telephone toll lines, is hereby extended to and including June 30, 1919, on condition that at least two-thirds of the reconstruction work necessary to be done shall be completed on or before June 30, 1918, and the entire work on or before June 30, 1919.

(3) At the times herein directed, petitioner shall file with the Railroad Commission, on forms to be supplied by the Railroad Commission, progress reports showing in such detail as will be prescribed by the Railroad Commission the extent to which the necessary reconstruction work has been performed during the period covered by the report and also the extent to which reconstruction work remains to be done in order that the property will comply with the provisions of chapter 499, laws of 1911, as amended by chapter 600, laws of 1915, except in the matter of horizontal clearances of telephone toll lines. The first report shall cover the period ending December 31, 1917, and shall be filed with the Railroad Commission within fifteen days subsequent thereto. The succeeding reports shall cover the succeeding six-months periods, respectively, and shall be filed on or before the expiration of fifteen days after the termination of each succeeding period of six months.

(4) The provisions of the decision rendered on April 30, 1916, in Application No. 2109, The Pacific Telephone and Telegraph Company et al., shall govern with reference to the reconstruction work necessary to be done in connection with that portion of petitioner's property which was acquired on December 1, 1916, from The Pacific Telephone and Telegraph Company, provided that the first report showing the extent to which the necessary reconstruction work has been performed as provided in paragraph 3 of the decision herein referred to, shall cover the period ending December 31, 1917, and shall be filed with the Railroad Commission within fifteen days subsequent thereto, and provided, further, that the succeeding reports shall be filed in the manner and at the times heretofore provided in said decision.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the state of California.

Dated at San Francisco, California, this nineteenth day of September, 1917.

DECISION No. 4648.  
PACIFIC COAST STEAMSHIP COMPANY ET AL.  
*vs.*  
ALBION LUMBER COMPANY ET AL.

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Case No. 871.

*Decided September 19, 1917.*

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BY THE COMMISSION.

**ORDER OF DISMISSAL.**

Complainants having on September 14, 1917, asked for a dismissal without prejudice of the complaint in this proceeding,

*It is hereby ordered* that the complaint in this proceeding be and the same is hereby dismissed without prejudice.

Dated at San Francisco, California, this nineteenth day of September, 1917.

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DECISION No. 4649.  
WESTERN AUTO STAGE COMPANY  
*vs.*  
SAN FRANCISCO AND LOS ANGELES STAGE LINE.

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Case No. 1137.

*Decided September 19, 1917.*

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BY THE COMMISSION.

**ORDER OF DISMISSAL.**

Complainant having on September 15, 1917, made written request that the complaint herein be dismissed,

*It is hereby ordered* that the complaint herein be and the same hereby is dismissed.

Dated at San Francisco, California, this nineteenth day of September, 1917.

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DECISION No. 4650.  
IN THE MATTER OF THE APPLICATION OF W. L. COURTRIGHT TO  
TRANSFER A PORTION OF WATER SYSTEM AND FRANCHISE TO  
MARIN MUNICIPAL WATER DISTRICT.

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Application No. 3196.

*Decided September 19, 1917.*

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BY THE COMMISSION.

**ORDER.**

W. L. Courtright having applied to this commission for authority to transfer to Marin Municipal Water District, for the sum of \$146.00, a



certain small water distributing system in the southeastern part of the city of San Rafael, county of Marin, state of California, the property to be transferred being more particularly described in the form of indenture attached to the application and marked Exhibit "A," as follows:

All distributing mains, pipes, service connections, taps, valves and meters, fittings and the appurtenances of that certain distributing system belonging to the parties of the first part now lying and being in and east of Courtright road and McCoy road in that certain tract or subdivision of San Rafael known as "The Pienie Valley Tract," and all rights of way upon which the same are located.

Together with all and singular the tenements, hereditaments and appurtenances thereunto belonging or in anywise appertaining, and the reversion and reversions, remainder and remainders, rents, issues and profits thereof.

And the commission being of the opinion that this is not a case in which a public hearing is necessary, and that the application should be granted.

*It is hereby ordered* that the application in this proceeding be and the same is hereby granted, provided the authority to transfer property shall apply only to such transfer as is made on or before October 31, 1917, and further, that a copy of the deed transferring the property shall be filed with the commission within ten (10) days after the transfer is made.

Dated at San Francisco, California, this nineteenth day of September, 1917.

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DECISION No. 4651.

IN THE MATTER OF THE APPLICATION OF SIERRA AND SAN FRANCISCO POWER COMPANY FOR AN ORDER AUTHORIZING THE ISSUANCE OF FIRST MORTGAGE BONDS OF THE FACE VALUE OF ONE MILLION DOLLARS.

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Application No. 2586.

*Decided September 19, 1917.*

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BY THE COMMISSION.

**SEVENTH SUPPLEMENTAL ORDER.**

Good cause appearing,

*It is hereby ordered* that Sierra and San Francisco Power Company be and it is hereby authorized to use \$50,636.91 of the proceeds obtained

from the sale of \$1,000,000.00 face value of its first mortgage 5 per cent forty-year gold bonds, the issue of which was authorized by this commission in Decision No. 3816, dated October 24, 1916, to reimburse its treasury for capital expenditures incurred during the months of June and July, 1917; said capital expenditures amounting to \$50,636.91. being set forth in Exhibit "A" attached to the seventh supplemental application herein filed with this commission on September 5, 1917.

*It is hereby further ordered* that this commission's Decision No. 3816, dated October 24, 1916, as amended by the supplemental orders of the Railroad Commission, shall remain in full force and effect except as amended by this seventh supplemental order.

Dated at San Francisco, California, this nineteenth day of September, 1917.

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DECISION No. 4652.

IN THE MATTER OF THE APPLICATION OF HOWARD TERMINAL  
COMPANY FOR AN ORDER AUTHORIZING THE ISSUANCE OF  
STOCK.

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Application No. 3020.

*Decided September 19, 1917.*

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BY THE COMMISSION.

**FIRST SUPPLEMENTAL ORDER.**

Good cause appearing,

*It is hereby ordered* that this commission's Decision No. 4528, dated August 10, 1917, be and it is hereby amended to allow Howard Terminal Railway to issue one share of stock to John Lawson in lieu of the one share of stock heretofore authorized to be issued to R. C. Reid.

*It is hereby further ordered* that this commission's Decision No. 4528 shall remain in full force and effect except as modified by this first supplemental order.

Dated at San Francisco, California, this nineteenth day of September, 1917.

## DECISION No. 4653.

IN THE MATTER OF THE APPLICATION OF COAST COUNTIES GAS AND ELECTRIC COMPANY FOR AN ORDER TO ISSUE EIGHT HUNDRED SHARES OF THE FIRST PREFERRED STOCK OF SAID CORPORATION AT NINETY PER CENT OF THE PAR VALUE THEREOF AND FOR AN ORDER ALLOWING THE PAYMENT OF A BROKERAGE COMMISSION NOT EXCEEDING FIVE PER CENT FOR THE SALE OF ANY OF SAID STOCK.

Application No. 3116.

*Decided September 19, 1917.*

Applicant authorized to issue \$80,000.00 par value of its first preferred 6 per cent capital stock, to be sold at not less than \$5, proceeds to be used partly to discharge outstanding notes of applicant, the balance for such capital expenditures as specified in supplemental orders of the commission.

*S. Waldo Coleman*, for Applicant.

*EDGERTON*, Commissioner.

## OPINION.

This is an application by Coast Counties Gas and Electric Company to issue 800 shares (\$80,000.00) of 6 per cent first preferred stock; to sell said stock at not less than \$85.00 per share net to the company and to use the proceeds to pay notes and for additions and betterments to its property.

Applicant has entered into no contract for the sale of its stock. It will endeavor to sell the same at not less than \$90.00 per share. If unsuccessful in this, it desires permission to pay a commission of not exceeding \$5.00 per share, making the net yield \$85.00 per share.

Applicant reports stock authorized and outstanding as follows:

Class of stock	Amount authorized	Amount outstanding
First preferred -----	\$1,000,000 00	\$100,000 00
Original preferred -----	1,000,000 00	1,000,000 00
Common -----	2,000,000 00	1,000,000 00
Totals -----	\$4,000,000 00	\$2,100,000 00

In Exhibit "B," attached to the petition, applicant reports assets and liabilities as of June 30, 1917, as follows:

<i>Assets.</i>	
Fixed capital .....	\$2,837,569 76
Construction work in progress.....	21,353 03
Investments .....	862,831 15
Cash .....	6,228 72
Notes receivable .....	6,904 72
Accounts receivable .....	63,734 81
Materials and supplies.....	44,760 51
Cash in sinking funds.....	4,269 26
Prepaid expenses .....	1,443 97
Unamortized discount and expenses.....	18,940 15
Stock .....	\$11,273 25
Debentures .....	7,666 90
Miscellaneous assets .....	21,888 45
Dividends .....	33,000 00
Original preferred—paid .....	\$30,000 00
First preferred—paid .....	3,000 00
Total assets .....	\$3,922,924 53
<i>Liabilities.</i>	
Stock outstanding .....	\$2,100,000 00
Common .....	\$1,000,000 00
Original preferred .....	1,000,000 00
First preferred .....	100,000 00
Funded debt outstanding.....	1,523,000 00
Coast Counties Light and Power Co. bonds.....	\$928,000 00
Big Creek Light and Power Co. bonds.....	297,000 00
San Benito Light and Power Co. bonds.....	148,000 00
Coast Counties G. & E. Co. debentures.....	150,000 00
Notes payable .....	81,930 57
Accounts payable .....	41,572 60
Accrued interest .....	31,307 70
Reserves .....	78,805 20
Accrued depreciation .....	\$68,380 00
Casualty and insurance.....	8,016 38
Bad debts .....	2,362 82
Legal expense .....	46 00
Profit—January 1 to June 30, 1917.....	39,225 70
Corporate surplus .....	27,082 76
Total liabilities .....	\$3,922,924 53

In addition to the bonds outstanding, applicant reports that it holds alive in its sinking funds \$72,000.00 Coast Counties Light and Power Company bonds, \$42,000.00 Big Creek Light and Power Company bonds and \$2,000.00 San Benito Light and Power Company bonds.

For the years 1915 and 1916 and the six months ending June 30, 1917, applicant reports revenues and expenses as follows:

	Year ending December 31, 1915	Year ending December 31, 1916	Six months ending June 30, 1917
Operating revenues—			
Electric .....	\$247,474 70	\$262,827 40	\$127,460 35
Gas .....	89,977 28	100,837 26	47,483 82
Miscellaneous .....	758 16	5,338 04	2,574 24
<b>Totals .....</b>	<b>\$338,210 09</b>	<b>\$369,002 70</b>	<b>\$177,518 41</b>
Operating expenses—			
Operations and repairs .....	\$154,814 03	\$172,380 05	\$77,612 35
Taxes .....	18,596 39	19,811 87	10,718 75
Depreciation .....	20,000 00	20,000 00	10,200 00
<b>Totals .....</b>	<b>\$193,410 42</b>	<b>\$212,191 92</b>	<b>\$98,531 10</b>
<b>Net operating revenues .....</b>	<b>\$144,799 67</b>	<b>\$156,810 78</b>	<b>\$78,987 31</b>
Deductions—			
Interest on funded debt .....	\$77,373 95	\$81,560 00	\$37,795 34
Other interest .....	6,634 55	2,522 20	1,376 53
Uncollectible bills .....		1,439 21	
Nonoperating deductions .....	1,590 36	2,108 11	
Amortization of debt discount .....		1,162 08	589 74
<b>Total deductions .....</b>	<b>\$85,598 86</b>	<b>\$89,291 63</b>	<b>\$39,761 61</b>
<b>Surplus earnings for year .....</b>	<b>\$59,200 81</b>	<b>\$67,519 15</b>	<b>\$39,225 70</b>

The variations in applicant's corporate surplus account for 1915 and 1916 are reported as follows:

Item	1916	1915
Surplus beginning of year .....	\$28,706 30	\$33,264 81
Additions for year—		
Profit from year from income account .....	\$67,519 15	\$59,200 81
Miscellaneous additions to surplus .....	1,733 44	708 29
<b>Surplus and additions .....</b>	<b>\$97,958 89</b>	<b>\$93,173 91</b>
Deductions for year—		
Dividends on outstanding stock .....	\$64,833 24	\$61,172 67
Sinking fund appropriations .....	200 00	
Amortization unprovided for elsewhere .....	4,146 04	
Miscellaneous deductions .....	2,304 94	2,136 35
Amortized discount on securities and expense .....		1,158 59
<b>Total deductions .....</b>	<b>\$71,484 22</b>	<b>\$64,467 61</b>
<b>Surplus end of year .....</b>	<b>\$26,474 67</b>	<b>\$28,706 30</b>

Applicant reports that from January 1, 1915, to June 30, 1917, it has expended for capital purposes the sum of \$74,256.29. Of these expenditures, it is reported that \$5,929.28 have been capitalized, leaving \$68,327.01, against which no stock or bonds have been issued. A

detailed statement of the expenditures is attached to the petition. To finance this construction, applicant has borrowed money on short-term notes and has expended earnings for capital purposes.

In paragraph VI of the petition, applicant's note indebtedness, as of June 30, 1917, is reported at \$81,930.57. Of this debt, applicant desires to pay the amount of \$68,327.01 through the issue of stock, the remainder of the proceeds from the sale of the stock to be applied directly to capital purposes. The notes listed in paragraph VI mature at varying dates and it is possible that applicant will have to pay some of them before it is able to dispose of all of the \$80,000.00 par value of stock. In such event, applicant desires authority to apply the proceeds from the stock to the payment of indebtedness other than that listed in paragraph VI of the petition.

I am of the opinion that applicant's present needs will be fully met if the Railroad Commission authorize it to issue \$80,000.00 par value of its first preferred stock, at not less than \$85.00 per share, and permit it to expend \$68,327.01 of the proceeds to pay notes listed in paragraph VI of the petition, or for such other purposes as may hereafter be authorized by the commission by a supplemental order.

I herewith submit the following form of order:

#### ORDER.

Coast Counties Gas and Electric Company having applied to the Railroad Commission for authority to issue \$80,000.00 par value of its first preferred 6 per cent capital stock, and a hearing having been held and the commission being of the opinion that the money, property or labor to be procured or paid for by such issue is reasonably required for the purpose or purposes specified in the order,

*It is hereby ordered* that Coast Counties Gas and Electric Company be and it is hereby authorized to issue \$80,000.00 par value of its first preferred 6 per cent capital stock.

The authority hereby granted to issue said capital stock is upon the following conditions and not otherwise:

1. The stock hereby authorized to be issued shall be sold by applicant for cash at not less than 85 per cent of its par value.

2. The sum of \$68,327.01 obtained from the issue of the stock hereby authorized, shall be used by applicant to pay in part the notes listed in paragraph VI of the petition, or for such other purposes as the Railroad Commission may hereafter authorize by a supplemental order.

3. The remainder of the proceeds shall be expended for capital purposes, as directed by the Railroad Commission by a supplemental order.

4. Coast Counties Gas and Electric Company shall keep separate, true and accurate accounts showing the receipt and application in

detail of the proceeds of the sale of the stock hereby authorized to be issued, and on or before the twenty-fifth day of each month the company shall make verified reports to the commission stating the sale or sales of said stock during the preceding month, the terms and conditions of the sale, the moneys realized therefrom, and the use and application of such moneys, all in accordance with the commission's General Order No. 24, which order, in so far as applicable, is made a part of this order.

5. The authority hereby granted shall apply to such stock as shall have been issued on or before June 30, 1918.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the state of California.

Dated at San Francisco, California, this nineteenth day of September, 1917.

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DECISION No. 4654.

IN THE MATTER OF THE APPLICATION OF THE UKIAH GAS COMPANY  
FOR AUTHORITY TO INCREASE ITS MONTHLY MINIMUM CHARGE  
FOR GAS SERVICE FROM FIFTY CENTS TO ONE DOLLAR.

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Application No. 2868.

*Decided September 21, 1917.*

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Upon a showing that the present monthly minimum of 50 cents as charged by applicant for gas delivered in the city of Ukiah is noncompensatory, a monthly minimum charge of 75 cents is established to become effective beginning the month of November, 1917.

*H. C. Giles*, for Applicant.

*Chas. M. Mannon*, city attorney, for city of Ukiah.

*Mrs. C. D. Atkinson*, Protestant, *in propria persona*.

*J. F. Hilliard*, Protestant, *in propria persona*.

BY THE COMMISSION.

OPINION.

In this application Ukiah Gas Company requests authority to increase its monthly minimum charge for gas service from the present minimum of 50 cents to \$1.00 per meter per month.

Hearings were held in this matter before Examiner Encell at Ukiah on June 4 and July 18, 1917.

Applicant owns and operates an artificial gas plant located in the town of Ukiah and is at present serving approximately 425 consumers with artificial gas. Gas is manufactured from oil costing \$1.40 per barrel under an existing contract. The gas plant consists of a small artificial generating plant of 75,000 cubic feet daily capacity, a 20,000

cubic foot gas holder and a low pressure distribution system, including 11 miles of main.

Gas service is limited to cooking and heating purposes by the provisions of applicant's franchise. The present rates for gas charged by applicant are as follows:

Consumption up to 5,000 cubic feet per month, \$1.50 per 1,000 cubic feet.

Consumption from 5,000 to 10,000 cubic feet per month, \$1.35 per 1,000 cubic feet.

Consumption from 10,000 to 15,000 cubic feet per month, \$1.25 per 1,000 cubic feet.

Consumption of 15,000 cubic feet and over, \$1.15 per 1,000 cubic feet.

Minimum bill, 50 cents per month.

Assistant Engineer W. J. Hammond of the commission's gas and electric department submitted a report upon the property showing an estimated reproduction cost new of \$35,865.00. The gross revenue for the 12 months ending May 31, 1917, was \$9,102.10. The net revenue, after correcting for certain deductions and additions in accordance with the testimony, was \$1,190.14. This amounts to approximately  $3\frac{1}{3}$  per cent for interest and depreciation upon the property. In addition to the taxes paid during the year reported, the company will, in the future, be required to pay 2 per cent franchise tax on its gross revenue, thus further decreasing the net return upon the investment.

Applicant at this time does not request an increase of its gas rates except to increase its minimum charge. It apparently believes that any increase in the present rate would cause a loss of a large number of consumers and an actual decrease in net revenue.

The city of Ukiah is located in a district where wood for fuel purposes is relatively cheap and the company is limited in its charges for gas service by competition with such fuel. The largest monthly sales and revenue for the year ending May 31, 1917, occurred in the warmer summer months, while the greatest number of minimum bills occurred in December and January, indicating that gas is used only partially for cooking requirements and but little or not at all for heating. The average number of consumers paying the 50 cent minimum during this period was 92. Provided the same conditions continued, 172 consumers would have paid a minimum of \$1.00 under the requested increase. It was the opinion of the representative of the company, supported by testimony of protestants, that a considerable number of the present consumers would entirely discontinue service if the minimum was increased to \$1.00 per month. This might be expected under the conditions of use of gas in this community.

Investigation of the minimum cost of serving consumers on this company's system and certain other similar companies in the state shows that said cost approximates 75 cents per consumer per month. Considering this fact and the other limiting conditions, including



competition with wood as fuel, we believe that a minimum of 75 cents per consumer per month is reasonable.

#### ORDER.

Ukiah Gas Company having made application to the Railroad Commission for an increase of its minimum gas bill and hearings having been held, and the matter being now ready for decision,

The Railroad Commission hereby finds at a fact:

(1) That the minimum charge of 50 cents now being made by Ukiah Gas Company is unjust and unreasonable in so far as it differs from the charge herein established.

(2) That the minimum charge of 75 cents per consumer per month herein established is just and reasonable.

Basing its order upon the above findings of fact and upon the findings of fact in the opinion preceding this order,

*It is hereby ordered* that Ukiah Gas Company establish and file with the Railroad Commission on before October 20, and make effective commencing with the month of November, a minimum charge for gas service of 75 cents per meter per month.

Dated at San Francisco, California, this twenty-first day of September, 1917.

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#### DECISION No. 4655.

IN THE MATTER OF THE APPLICATION OF WILLIAM F. FOWLER, AS RECEIVER OF THE CANAL AND IRRIGATION SYSTEM FORMERLY OWNED BY SACRAMENTO VALLEY WEST SIDE CANAL COMPANY, FOR AN ORDER AUTHORIZING THE LEASE OF A PORTION OF THE QUINT LATERAL TO P. B. CROSS.

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Application No. 3190.

*Decided September 21, 1917.*

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Applicant authorized to lease for a period of forty years the right to use a certain lateral, provided that such use does not interfere with the delivery of water to other consumers of applicant.

*Bacigalupi & Elkus*, for Applicant.

THELEN, *Commissioner*.

#### OPINION.

William F. Fowler, receiver of the property formerly owned and operated by Sacramento Valley West Side Canal Company, in Glenn and Colusa counties, asks authority to lease to P. B. Cross for the term of forty years specified rights in that portion of the Quint lateral which is located on the Logan Cecil Tract.

The lease to be executed by Mr. Fowler, a copy whereof is attached as Exhibit "A" to the petition herein, provides, in part, as follows:

1. That Cross is to use said portion of the Quint lateral for the purpose of conducting water through the same to irrigate his lands, but that the use of the lateral by Cross shall not interfere with or affect its use by the canal and irrigation system of Sacramento Valley West Side Canal Company.

2. That if the demands of the lands entitled to be served with water from said canal and irrigation system shall require the present entire capacity of the Quint lateral, Cross, if he desires to use the lateral, shall, at his own expense, make the necessary enlargement thereof.

3. That said canal and irrigation system shall at all times have a preferential right to the use of the said portion of the Quint lateral for the delivery of water as a public utility to lands now being served or capable of being served through said canal and irrigation system through said lateral, and that the rights granted by the lease shall be secondary to the use of the lateral as a public utility.

4. That Cross shall, at his own cost and expense, keep said portion of the Quint lateral in repair and maintain the same.

The lease contains other provisions to which it is not necessary here to refer.

It appears that said portion of the Quint lateral has a capacity in excess of its present requirements as a part of the public utility water system formerly owned and operated by Sacramento Valley West Side Canal Company, and that the consummation of the proposed lease will result in a more complete utilization of said lateral without doing injury to anyone.

California Midland Realty Company, the owner of the only lands which are receiving water from said portion of the Quint lateral, other than lands which have been purchased by Cross, has filed herein a letter stating that it has no objection to the granting of the petition.

I recommend that the petition be granted and submit the following form of order:

#### ORDER.

William F. Fowler, receiver of the property of Sacramento Valley West Side Canal Company, having filed herein his petition asking authority to lease to P. B. Cross the right to use the portion of the Quint lateral hereinafter more particularly described, under the terms and conditions of the form of lease hereinafter referred to, and the Railroad Commission being fully advised.

*It is hereby ordered* that William F. Fowler, receiver of the public utility water system formerly owned and operated by Sacramento

Valley West Side Canal Company be and he is hereby authorized to lease to P. B. Cross, for the period of forty (40) years, and under the terms and conditions which are set forth in copy of proposed lease which is attached to the petition herein and marked "Exhibit A," that portion of the Quint lateral which is located on the Logan Cecil Tract, beginning at the intersection of the Quint lateral and the line between the Logan Cecil Tract and section 90 of the Sacramento Valley Irrigation Company's subdivision of the Jacinto unit, and running thence in a general southerly direction across said Logan Cecil Tract to the boundary line between said Logan Cecil Tract and the Sacramento Valley Colony No. 4, containing 30.4 acres.

Within ten (10) days after the execution of the lease herein authorized, petitioner shall file with the Railroad Commission a certified copy thereof.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the state of California.

Dated at San Francisco, California, this twenty-first day of September, 1917.

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Decision No. 4656, grade crossing: not printed. See end of volume.

**DECISION No. 4657.**

**IN THE MATTER OF THE APPLICATION OF MRS. NELLIE WILLIAMS  
FOR PERMISSION TO DISCONTINUE SUPPLYING WATER FOR  
THE TOWN OF CALLAHAN, SISKIYOU COUNTY, CALIFORNIA.**

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Application No. 3093.

*Decided September 24, 1917.*

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BY THE COMMISSION.

**ORDER OF DISMISSAL.**

Applicant herein having, on September 11, 1917, made written request that the application in this proceeding be dismissed,

*It is hereby ordered* that the application in this proceeding be and the same is hereby dismissed.

Dated at San Francisco, California, this twenty-fourth day of September, 1917.

## DECISION No. 4658.

IN THE MATTER OF THE APPLICATION OF KINGS LAKE SHORE  
RAILROAD COMPANY FOR AN ORDER AUTHORIZING AN ISSUE  
OF CAPITAL STOCK AND BONDS.

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Application No. 2919.

*Decided September 24, 1917.*

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BY THE COMMISSION.

**THIRD SUPPLEMENTAL ORDER.**

Whereas Condition "2" of the order in Decision No. 4461, dated July 16, 1917, reads in part as follows:

"\$135,000.00 face value of bonds herein authorized to be issued may be issued to Chas. King in part payment for the property deeded by him to the railroad company on July 7, 1917, as described in applicant's Exhibit No. 2, but only after any liens upon said property shall have been discharged and only after the deeds to the right of way for the first ten miles of applicant's line shall have been executed in favor of the railroad company. When said liens have been discharged and said deeds executed, applicant shall advise this commission and secure a supplemental order stating that the conditions of this section have been complied with."

And

Whereas applicant now reports that it is operating fifteen miles of its road; that valid contracts have been entered into for all of its rights of way, except a right of way across a tract of land 178 rods in length; that unless satisfactory arrangements can be made to acquire a right of way across said tract of land it will initiate condemnation proceedings; and

Whereas applicant requests that Condition "2" of the order above quoted be modified so as to permit it to issue the \$135,000.00 of bonds without procuring deeds for the entire ten miles of right of way; and good cause appearing,

*It is hereby ordered* that Condition "2" of the order in Decision No. 4461, dated July 16, 1917, be and the same is amended so as to read:

"Bonds in the amount of \$135,000.00 herein authorized to be issued may be issued to Chas. King in part payment for the property deeded by him to the railroad company on July 7, 1917, as described in applicant's Exhibit No. 2, provided that any liens upon said property shall have been discharged so that the deed of trust securing the payment of said \$135,000.00 of bonds shall constitute a first lien upon said properties."

*It is hereby further ordered* that the order in Decision No. 4461, dated July 16, 1917, as amended, shall remain in full force and effect except as modified by this third supplemental order.

Dated at San Francisco, California, this twenty-fourth day of September, 1917.

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DECISION No. 4659.  
EL DORADO STAGE COMPANY  
*vs.*  
MOTOR TRANSIT COMPANY.

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Case No. 1125.

*Decided September 24, 1917.*

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BY THE COMMISSION.

**ORDER OF DISMISSAL.**

El Dorado Stage Company, Inc., having, on September 21, 1917, made written request that the complaint herein be dismissed without prejudice,

*It is hereby ordered* that the complaint herein be and the same is hereby dismissed without prejudice.

Dated at San Francisco, California, this twenty-fourth day of September, 1917.

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DECISION No. 4660.  
IN THE MATTER OF THE APPLICATION OF W. A. BUCKNAM, OWNER  
OF THE TROUT CREEK WATER SYSTEM IN TRUCKEE, NEVADA  
COUNTY, CALIFORNIA, FOR PERMISSION TO SELL SAID WATER  
SYSTEM TO H. C. LICHTENBERGER.

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Application No. 3185.

*Decided September 24, 1917.*

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BY THE COMMISSION.

**ORDER.**

W. A. Bucknam having applied to this commission for authority to sell to H. C. Lichtenberger, for the sum of \$600.00, a certain public utility water system, the property to be conveyed being described in the application as follows:

That a detailed description of the property to be conveyed is as follows:

Trout Creek and Joe Gray spring, water right; also, the iron pipes leading from said spring to the residences or places of busi-

ness of the following: Mrs. W. Hill, Mrs. M. Torson, Marzen house, Ohland house, Powell house, Kirchner house, Cassidy house, Tahoe Garage, De Sault's house, Sherritt Bakery, Truckee Mercantile Company, Franzini's small house on Church street; also pipe from Keiser avenue to the two-story dwelling of Torson down to Main street, all in the town of Truckee, county of Nevada, state of California.

And the consumers of said system having advised the commission that they have no objection to the transfer, and it appearing that this is not a matter in which a public hearing is necessary, and that the application should be granted,

*It is hereby ordered* that this application be and the same hereby is granted;

Provided, that the authority to transfer the property above described shall apply only to such conveyance as is made on or before October 31, 1917; and

Provided further, that the consideration given for the property herein authorized to be transferred shall not be taken before the Railroad Commission or any other public body as representing for rate fixing or other purposes the actual value of the property so transferred.

Dated at San Francisco, California, this twenty-fourth day of September, 1917.

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DECISION No. 4661.

IN THE MATTER OF THE APPLICATION OF PACIFIC GAS AND ELECTRIC COMPANY AND PARADISE IRRIGATION DISTRICT FOR AN ORDER OF THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA AUTHORIZING PACIFIC GAS AND ELECTRIC COMPANY TO SELL, AND PARADISE IRRIGATION DISTRICT TO PURCHASE, UNDER AND IN ACCORDANCE WITH THE TERMS OF A CERTAIN AGREEMENT OF SALE, CERTAIN PROPERTY DESCRIBED HEREIN.

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Application No. 3205.

*Decided September 24, 1917.*

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BY THE COMMISSION.

**ORDER.**

Pacific Gas and Electric Company having applied to this commission for authority to transfer to Paradise Irrigation District, for the sum of \$13,000.00, and in accordance with the terms and conditions of an agreement attached to the application in this proceeding and marked Exhibit "B," the following water utility property:

1. That certain lot, piece or parcel of land situate, lying and being in the county of Butte, state of California, commonly known

as and called the "Magalia reservoir site," and more particularly described as follows, to wit:

The southeast quarter (SE.  $\frac{1}{4}$ ) of section twenty-four (24) and the southeast quarter (SE.  $\frac{1}{4}$ ) and the west half (W.  $\frac{1}{2}$ ) of the northeast quarter (NE.  $\frac{1}{4}$ ) of section twenty-five (25), in township 23 north, range 3 east, M. D. B. and M., less one (1) acre in the southeast quarter of the southeast quarter (SE.  $\frac{1}{4}$  of SE.  $\frac{1}{4}$ ) of section 25 aforesaid, situate in the dam site of said reservoir.

2. That portion of a certain aqueduct for conveying water situate in the county of Butte, state of California, and commonly known as and called the "Cherokee ditch," extending from Engineers Station 173+30 to Station 328+75, said ditch being approximately 15,545 feet in length.

3. The right to appropriate, divert and use the waters flowing and to flow in Little Creek, subject, however, to the terms and conditions contained in that certain agreement entered into by and between the Pacific Gas and Electric Company and the Paradise Irrigation District, dated the thirteenth day of April, 1917.

And Paradise Irrigation District having joined in the application, and the commission being of the opinion that this is not a case in which a public hearing is necessary and that the application should be granted,

*It is hereby ordered* that the application herein be and the same is hereby granted; provided, that the authority herein granted to transfer property shall apply only to such property as is transferred on or before the thirty-first day of December, 1917; and provided further, that within ten (10) days after the transfer is made in accordance with this order, a copy of the deed of conveyance be filed with the Railroad Commission.

Dated at San Francisco, California, this twenty-fourth day of September, 1917.

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#### DECISION No. 4662.

IN THE MATTER OF THE APPLICATION OF MIDWAY GAS COMPANY FOR A CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY AND AUTHORIZATION TO BEGIN THE CONSTRUCTION OF AN EXTENSION TO ITS LINE OR SYSTEM AND TO MAINTAIN CERTAIN EXTENSIONS TO ITS LINE OR SYSTEM.

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Application No. 3209.

*Decided September 24, 1917.*

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BY THE COMMISSION.

#### ORDER.

Whereas Midway Gas Company has applied to this commission for a certificate that public convenience and necessity requires that it serve

gas to seven oil-pumping plants of the General Pipe Line Company located in Kern County, five of which, namely, Lebec, Grapevine, Rose, Emidio and Pentland, are located outside of the Midway oil fields, and two, Midway and Continental, are located in Midway oil fields, Kern County; and

Whereas Midway Gas Company has applied for a certificate that public convenience and necessity requires the construction by it of a gas main from its present system in the Midway oil fields to the oil-pumping plant of Producers Transportation Company, located in the northwest  $\frac{1}{4}$  of section 14, township 32 south, range 23 east, M. D. B. and M., and the sale to Producers Transportation Company of surplus gas for fuel purposes; and

Whereas the five first-named plants are located in territory not now served by other utilities of like character; and

Whereas the Valley Natural Gas Company, serving natural gas for fuel purposes in Midway oil fields, has filed a stipulation, which stipulation was attached to and made a part of the above-entitled application, consenting to the granting of relief herein applied for under certain conditions; and it appearing that all extensions and services herein referred to are on private property, and no franchise being required, the Railroad Commission of the state of California hereby declares:

1. That the present and future public convenience and necessity require and will require the service of natural gas by Midway Gas Company to the seven oil-pumping plants of the General Pipe Line Company designated as Lebec, Grapevine, Rose, Emidio, Pentland, Midway and Continental in the county of Kern.

2. That the present and future public convenience and necessity require and will require the extension by Midway Gas Company of its gas system to the pumping plant of Producers Transportation Company, located in the northwest  $\frac{1}{4}$  of section 14, township 32 south, range 23 east, M. D. B. and M., and the service to said plant of surplus natural gas, subject to the conditions as set forth in the stipulation filed by Valley Natural Gas Company and attached to and made a part of the application herein, which stipulation sets forth in part as follows:

“Valley Natural Gas Company consents to the granting of the relief prayed for in the above entitled application upon the conditions stated in section V of said application.”

Section V reads as follows:

“If at any time hereafter while applicant is so serving said Producers Transportation Company the Valley Natural Gas Company shall have a supply of gas available for sale in the Midway oil fields over and above its other requirements and sufficient to enable it to supply Producers Transportation Company with gas for fuel for said station, that then, upon written request to applicant from Valley Natural Gas Company, applicant shall, so long



as it continues to serve Producers Transportation Company at said station, purchase from Valley Natural Gas Company, at any suitable point of delivery in the gathering lines of applicant, gas to an amount equal to the amount served Producers Transportation Company at said station after said written request, at the current rate of Valley Natural Gas Company applicable to gas for fuel for pumping purposes at point of delivery. In the event that gas shall be so purchased from the Valley Natural Gas Company, it shall be delivered to applicant in such quantities and at such times as to coincide in quantities and times, as near as practicable, with the said service by applicant to Producers Transportation Company."

Dated at San Francisco, California, this twenty-fourth day of September, 1917.

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DECISION No. 4663.

IN THE MATTER OF THE APPLICATION OF THE TRADERS OIL COMPANY FOR AUTHORITY TO DISCONTINUE SERVICE, AND OTHER RELIEF.

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Application No. 2534.

*Decided September 24, 1917.*

A utility engaged in two or more business activities can not contend that one particular line of its business has any preferential rights to service over and above those of other consumers at present receiving such service.

The fact that a new consumer is willing to pay a higher rate for service than that at present received from another consumer can not be considered as just grounds for increasing the rate to the existing consumer, regardless of the return to which the utility may be entitled upon its investment.

Traders Oil Company authorized to establish a rate of 10 cents per 1,000 cubic feet for natural gas delivered in wholesale quantities to the Coalinga Pipe Line Company.

*Crail & Crail*, by *Charles S. Crail*, for Applicant.

*Henry S. Richmond*, for city of Coalinga.

*G. W. Satchell*, for Coalinga Gas and Power Company.

*John B. Yakey* and *J. H. Allen*, for Coalinga Pipe Line Company.

BY THE COMMISSION.

OPINION.

In this application Traders Oil Company requested that the commission issue an order declaring that Traders Oil Company was not a public utility; that the natural gas well owned by it was not dedicated to the public use; that Traders Oil Company be authorized to discontinue service and use the gas from said well in its own pumping plant and that Traders Oil Company be authorized to charge 60 cents per 1,000 cubic feet of gas delivered.

Hearings were held in this matter on September 12 and 21, 1916, before Examiner Encell, evidence and argument being taken relative to the first two requests, as it was apparent that if applicant was not a public utility the commission would have no jurisdiction and it would not be necessary to determine the rates to be charged. On March 7, 1917, the commission issued its order, Decision No. 4163, in which it found as a fact that the natural gas property of Traders Oil Company was a public utility and subject to the jurisdiction of the commission. Further hearings were held at Coalinga for the purpose of taking evidence on the question of the discontinuance of service and the determination of the rates to be charged.

The general history of the development of gas on the Traders Oil Company's property, the construction of the Coalinga pipe line and the service of natural gas to the Coalinga Gas and Power Company, which in turn serves the inhabitants of Coalinga, is given in this commission's previous decisions Nos. 1405 and 3214 (Opinions and Orders of the Railroad Commission of the State of California, Vol. 4, p. 657, and Vol. 9, p. 413, respectively), and in the previous Decision No. 4163 in this application. The history of those matters which will affect the rates is in general as follows:

Traders Oil Company purchased the southwest  $\frac{1}{4}$  of the southeast  $\frac{1}{4}$  of section 35, township 20 south, range 14 east, M. D. B. and M., in the western part of the Coalinga oil fields, for a water supply to be used in connection with other developments of that company for approximately \$20,000.00, and thereafter improved and extended an existing water system increasing the total investment to approximately \$35,000.00. Thereafter on the eighth day of February, 1912, Traders Oil Company leased to one B. I. Potter the right to drill for oil or other products, such as gas and naphtha, and to take from said property such products. Traders Oil Company was to receive as royalty one-quarter of the total output from such development or receipts from the sale of the same. Some five shallow oil wells were drilled by the lessee at a total cost estimated at approximately \$36,000.00. Two of the wells produced a small quantity of oil, not in commercial quantities, and one produced natural gas in such quantities as to justify the construction of a pipe line to serve Coalinga.

On October 27, 1913, Coalinga Pipe Line Company was incorporated and thereafter constructed a 2 $\frac{1}{2}$ -inch pipe line from the well to Coalinga, a distance of slightly over three miles. Agreements were entered into for the purchase of the gas output from the well at a rate of 8 cents per 1,000 cubic feet and the sale of gas to the Coalinga Gas and Power Company for 30 cents per 1,000 cubic feet. The sale price was later reduced to 25 cents per 1,000 cubic feet. The reasonable

cost of this line was in the neighborhood of \$4,000.00. Service was first rendered to the Coalinga Gas and Power Company in April, 1914.

It appears that Mr. Potter was not able to fulfill the requirements of his lease and the Traders Oil Company, on September 28, 1915, served notice on him that the lease would be canceled. The lease was thereafter canceled and the lessee's rights, together with such property installed, reverted to the Traders Oil Company. Traders Oil Company to clear up liens against the former lessee expended slightly over \$1,000.00. Little useful material or structures other than the gas well were obtained.

Traders Oil Company contends in this matter that it should receive a rate of at least 60 cents per 1,000 cubic feet for gas delivered to the Coalinga Pipe Line Company at the wells. This contention is based upon the testimony of Mr. M. V. McQuigg, president of the Traders Oil Company, that the gas is worth to that company for the operation of a water pumping plant in excess of \$1.00 per 1,000 cubic feet. At the present time Traders Oil Company is operating a water pumping plant near the gas well by steam engines, oil being hauled from the Traders Oil Company's oil wells at a cost of 62 cents per barrel. If this be added to the present field price of oil the cost of oil at the pumping plant is in excess of \$1.60 per barrel. Mr. McQuigg testified that the cost of operating the pumping plant at the time of the hearing was approximately \$800.00 per month and that he estimated the cost of operation, in case the gas was used, would not exceed \$150.00 per month. To accomplish this, however, Traders Oil Company would be required to replace its present steam equipment with gas engines at a considerable investment. Applicant apparently contends that if it can not use the gas for its own plant it should receive from the sale of that gas approximately the additional cost which it is put to by having to substitute oil. This argument can not be entertained. The gas business of Traders Oil Company must be considered entirely separate from its other activities. Its pumping plant must be considered as an applicant for service and on the same ground as any other applicant.

The question then arising is: Shall the fact that a new consumer is willing to pay a higher rate than that received from another consumer be just grounds for increasing the rate to the existing consumer regardless of the return which a utility may receive upon its investment? It is apparent in this instance that the Coalinga Pipe Line Company has a prior right to the gas from the well of the Traders Oil Company and that this right should not be done away with. The Coalinga Pipe Line Company has made a certain investment based upon the agreement for the purchase of the gas which, through its agency, is used for the supply of domestic and commercial consumers. It is our opinion that the only reasonable basis upon which to determine the rate is upon the allowance of a reasonable return upon the investment in the properties

used in this instance, due consideration being given to operation and expenses and hazard of the business.

At the present time Coalinga Gas and Power Company, the distributing company in Coalinga, pays 25 cents per 1,000 cubic feet delivered to it, and under the agreement between Coalinga Pipe Line Company and B. I. Potter, 8 cents per 1,000 cubic feet was to be paid to the producer. Under the present ownership, Traders Oil Company as successor in interest of its original lessees would obtain 8 cents per 1,000 cubic feet for all gas delivered to Coalinga Gas and Power Company and Coalinga Pipe Line Company would receive 17 cents per 1,000 cubic feet.

It was stipulated at the hearing that Coalinga Pipe Line Company and Traders Oil Company should submit to the determination by the commission of the charge to be made by each company for the respective service rendered, and we shall therefore consider the determination of the rate to be charged by Traders Oil Company to Coalinga Pipe Line Company and by Coalinga Pipe Line Company to Coalinga Gas and Power Company.

The total actual investment by the Traders Oil Company in the gas well is approximately \$1,000.00 and represents the amount paid by that company to satisfy claims against the lessee at the time the lease to B. I. Potter was foreclosed. This should be increased somewhat for expenses incurred in the acquiring of the lease and possible capital expenditure in rehabilitating the well; \$1,300.00 should be a reasonable amount. Mr. McQuigg testified that the land was purchased for a water supply and that he considered the water supply worth the price paid; that it was never the company's intention to attempt the development of oil or gas on the land.

The cost to the former lessee of drilling this well is estimated at from \$3,500.00 to \$5,000.00. Mr. Potter, in a previous application, estimated the cost of from \$3,500.00 to \$4,000.00. This well was, as were the other wells on this property, drilled primarily for oil. The wells have not produced oil in any commercial quantities and are apparently of no value to the owner of the property, with the exception of the one well producing gas. Under the circumstances, if Traders Oil Company receives sufficient to pay operating expenses, amortize its investment of approximately \$1,300.00, together with a return upon a fair cost of the well, it should have no just grounds for complaint.

The investment of the Coalinga Pipe Line Company is difficult of correct determination. Mr. I. B. Funk, witness for Traders Oil Company, testified that he estimated the bare cost of the pipe line and equipment of that company to be \$3,448.90.

Mr. B. I. Potter, who it appears was in charge of the construction of the line, testified in Application No. 1025 that the cost of the line was \$8,044.69.

A deduction should be made from the report of Mr. Potter for the compressor and electric plant, together with a portion of miscellaneous expense and labor which is nonoperative. The comparative figure will be approximately \$6,700.00, or an amount over \$3,300.00 in excess of Mr. Funk's estimate. It appears from the testimony in this case, however, that Mr. Potter's testimony can not be considered as correct in this regard and it is apparent that the cost is excessive for labor and hauling. The estimate of Mr. I. B. Funk apparently includes no supervision expense or other items of overhead and the testimony of local men seems to justify an increase in the freight and hauling charge and the cost of laying. We are allowing for the Coalinga Pipe Line Company's capital the sum of \$4,300.00, which appears from such evidence as was introduced to be a fair cost of constructing the line.

Traders Oil Company claimed no expense for operation and maintenance of the well and there appears to have been a very slight maintaining expense upon the pipe line. Practically all the work done upon the well during the past year has been by employees of the Coalinga Gas and Power Company. It is apparent that each utility will have to pay 5.6 per cent of its gross revenue as state tax and a certain allowance should be made to cover operation and administration expenses chargeable to the utilities' business. We shall, therefore, allow \$200.00 per year operating expenses for Coalinga Pipe Line Company and \$200.00 for the Traders Oil Company.

The gas well in question was considered as a freak and none of the witnesses felt in a position to estimate the probable life. The well has been in operation for practically four years, being brought in in the latter part of 1913. Practically no care has been taken of the well during 1916 and the first part of 1917 to insure its operation. It was the impression of those familiar with the well that if it was cleaned out it would probably produce considerable additional gas. However, we believe that it would be just in this case to allow the Traders Oil Company to amortize their investment in five years and the Pipe Line Company, which made its investment two years previous, in seven years, both companies to receive 10 per cent return upon their investment during the period.

The total cost of the delivery of gas to Coalinga Gas and Power Company by these two utilities jointly may be summarized as follows:

	Traders Oil Company	Coalinga Pipe Line Company	Total
Operating expenses -----	\$200 00	\$200 00	\$400 00
Amortization -----	231 00	512 00	743 00
Interest -----	400 00	420 00	820 00
Taxes -----	49 00	67 00	116 00
	<hr/>	<hr/>	<hr/>
	\$880 00	\$1,199 00	\$2,079 00

The sales to the Coalinga Gas and Power Company of natural gas during the past four years were reported as follows:

1914, April 20 to December 31-----	7,479,000 cubic feet
1915 -----	9,088,900 cubic feet
1916 -----	7,327,900 cubic feet
1917, three months-----	2,036,700 cubic feet

It is difficult to estimate what the output will be during the ensuing year, as this depends largely on the activity of the Traders Oil Company in cleaning out the well. The output will probably not exceed 7,500,000 cubic feet if nothing is done to the well. If the utilities expect to earn a reasonable return on the property, action should be taken to increase the output of the well. If the output is increased to eight or nine million cubic feet the companies will earn a fair return on the properties. From the above it would appear that the rate of 25 cents per 1,000 cubic feet was a reasonable rate to be charged for the production and transmission of the gas and the apportionment of the total charge should be approximately 10 cents per 1,000 cubic feet to the Traders Oil Company and 15 cents to the Coalinga Pipe Line Company.

#### ORDER.

Public hearings having been held in the above-entitled proceedings and said proceedings having been submitted and being now ready for decision, the Railroad Commission hereby makes the following findings of fact:

(1) The Railroad Commission hereby finds that the rate paid by the Coalinga Pipe Line Company, a corporation, to Traders Oil Company for natural gas, is unjust and unreasonable in so far as it differs from the rate herein established.

(2) The Railroad Commission of California hereby finds that the rate hereinafter established to be paid by the Coalinga Pipe Line Company, a corporation, to Traders Oil Company, a corporation, is a just and reasonable rate.

*It is hereby ordered as follows:*

Traders Oil Company is hereby ordered to establish and file with the Railroad Commission on or before September 15, 1917, the following rate for natural gas service by it to the Coalinga Pipe Line Company, a corporation, to wit:

Ten cents (10¢) per 1,000 cubic feet.

Dated at San Francisco, California, this twenty-fourth day of September, 1917.

## DECISION No. 4664.

IN THE MATTER OF THE APPLICATION OF SAN JOAQUIN LIGHT AND  
POWER CORPORATION FOR AN ORDER AUTHORIZING THE ISSUE  
AND SALE OF BONDS.

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Application No. 3140.

*Decided September 24, 1917.*

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BY THE COMMISSION.

**FIRST SUPPLEMENTAL ORDER.**

Whereas Condition No. 3 of the order in Decision No. 4602, dated August 30, 1917, authorizing San Joaquin Light and Power Corporation to issue \$745,000.00 of bonds, reads:

“No part of the proceeds of the bonds hereby authorized to be issued shall be expended by applicant until this commission has made its supplemental order specifying the purposes for which such proceeds shall be expended.”

And

Whereas San Joaquin Light and Power Corporation reports that it has expended for capital purposes subsequent to December 31, 1916, the sum of \$973,860.58; and

Whereas applicant requests authority to use the proceeds of \$410,000.00 of the bonds authorized to be issued by the order in Decision No. 4602, dated August 30, 1917, to reimburse its treasury in part for said capital expenditures, its intention being to use the proceeds after the reimbursement of its treasury to pay current indebtedness; and good cause appearing,

*It is hereby ordered* that San Joaquin Light and Power Corporation be and it is hereby authorized to use the proceeds of \$410,000.00 of bonds authorized to be issued by the order in Decision No. 4602, dated August 30, 1917, to reimburse its treasury in part for capital expenditures subsequent to December 31, 1916, provided that the proceeds of said \$410,000.00, after such reimbursement of the treasury, be used to pay current indebtedness.

*It is further ordered* that the order in Decision No. 4602, dated August 30, 1917, shall remain in full force and effect, except as modified by this first supplemental order.

Dated at San Francisco, California, this twenty-fourth day of September, 1917.

## DECISION No. 4665.

IN THE MATTER OF THE APPLICATION OF PACIFIC GAS AND ELECTRIC COMPANY AND AMADOR ELECTRIC LIGHT AND POWER COMPANY FOR AN ORDER AUTHORIZING THE SALE AND PURCHASE OF A CERTAIN ELECTRIC TRANSMISSION LINE IN THE TOWN OF SUTTER CREEK.

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Application No. 3195.

*Decided September 24, 1917.*

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BY THE COMMISSION.

**ORDER.**

Whereas Pacific Gas and Electric Company has applied for authority to sell, and Amador Electric Light and Power Company has applied for authority to purchase, a certain 2,400-volt electric transmission line located in the town of Sutter Creek, in accordance with a certain agreement between the parties; and good cause appearing that such authority should be granted,

*It is hereby ordered* that Pacific Gas and Electric Company be and it is hereby authorized to transfer to Amador Electric Light and Power Company for the sum of \$280.00 that certain 2,400-volt electric transmission line belonging to Pacific Gas and Electric Company which extends from its substation in the town of Sutter Creek, Amador County, state of California, to the office of the Amador Electric Light and Power Company in the said town of Sutter Creek, a distance of approximately one-quarter ( $\frac{1}{4}$ ) of a mile, in accordance with that certain agreement between the parties filed as Exhibit "A" and attached to the application herein.

The authority herein granted to transfer said property is granted upon the following conditions:

- (1) The price to be paid for the property herein authorized to be transferred shall not be binding upon this commission or any court or other public body as representing the value of said property for rate fixing or other purposes.
- (2) The authority herein granted to transfer property shall apply only to property so transferred within the period of sixty days from the date of this order.

Dated at San Francisco, California, this twenty-fourth day of September, 1917.



## DECISION No. 4666.

IN THE MATTER OF THE APPLICATION OF PACIFIC GAS AND ELECTRIC COMPANY FOR AN ORDER OF THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA APPROVING THAT CERTAIN AGREEMENT ENTERED INTO BY AND BETWEEN THE PACIFIC GAS AND ELECTRIC COMPANY AND MRS. S. M. MAPES, DATED THE TWENTY-THIRD DAY OF AUGUST, 1917.

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Application No. 3178.

*Decided September 24, 1917.*

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BY THE COMMISSION.

**ORDER.**

Pacific Gas and Electric Company having applied to this commission for an order approving a certain agreement entered into by it and Mrs. S. M. Mapes for electric power service in San Joaquin County; and

Whereas it appears that the conditions in this case justify the requiring of a contract for service and that the certain contract should be authorized under the conditions set forth in this order,

*It is hereby ordered* that Pacific Gas and Electric Company be and the same is hereby authorized to enter into a certain contract for the furnishing of electric energy for power purposes to Mrs. S. M. Mapes, San Joaquin County, in form and substance substantially as set forth in the instrument filed and attached to the application in the above-entitled matter.

The authority herein granted is granted subject to the conditions that

1. Said contract shall include the following provision:

“It is understood by and between the parties hereto that this agreement is subject at all times, after proceedings duly had, to change or abolition by the Railroad Commission of the state of California or by any public authority having jurisdiction.”

2. Applicant shall, within thirty days from the date of this order, file with the commission two copies of the contract herein authorized.

Dated at San Francisco, California, this twenty-fourth day of September, 1917.

Decision No. 4667, grade crossing; not printed. See end of volume.

DECISION No. 4668.

VALLEY NATURAL GAS COMPANY

*vs.*

MIDWAY GAS COMPANY.

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Case No. 1009.

*Decided September 24, 1917.*

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BY THE COMMISSION.

**ORDER ON PETITION FOR REHEARING.**

Whereas Midway Gas Company filed on June 14, 1917, its application for rehearing in the above-entitled matter, requesting that the order, in so far as it applied to the service by Midway Gas Company to the Midway and Continental pumping plants of the General Pipe Line Company, be set aside; and the effective date of the said order, in so far as it applied to the said pumping plants having been suspended by order of the commission pending further order by the commission; and

Whereas the commission has this day, in Application No. 3209, issued its order, Decision No. 4662, authorizing Midway Gas Company to serve the Midway and Continental pumping plants of the General Pipe Line Company,

*It is hereby ordered* that the application of the Midway Gas Company for a rehearing in the above-entitled matter be and the same is hereby dismissed.

Dated at San Francisco, California, this twenty-fourth day of September, 1917.

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DECISION No. 4669.

IN THE MATTER OF THE APPLICATION OF COUNTY OF CONTRA COSTA FOR AN ORDER AUTHORIZING THE OPENING OF A PUBLIC ROAD IN DISTRICT No. 1, S. D. No. 4, ACROSS THE TRACKS OF THE ATCHISON, TOPEKA AND SANTA FE RAILWAY COMPANY EAST OF PITTSBURG.

Application No. 2815.

IN THE MATTER OF THE APPLICATION OF COUNTY OF CONTRA COSTA FOR AN ORDER AUTHORIZING THE OPENING OF A PUBLIC ROAD IN ROAD DISTRICT No. 1, S. D. No. 4 ACROSS THE TRACKS OF SOUTHERN PACIFIC COMPANY AND THE ATCHISON, TOPEKA AND SANTA FE RAILWAY COMPANY, WEST OF PITTSBURG.

Application No. 2816.

IN THE MATTER OF THE SAFETY OF THE CROSSING OF THE TRACKS  
OF THE ATCHISON, TOPEKA AND SANTA FE RAILWAY COMPANY  
OVER RAILROAD AVENUE IN THE CITY OF PITTSBURG.

Case No. 1120.

IN THE MATTER OF THE SAFETY OF THE CROSSING OF THE TRACKS  
OF SOUTHERN PACIFIC COMPANY OVER RAILROAD AVENUE  
IN THE CITY OF PITTSBURG.

Case No. 1121.

*Decided September 24, 1917.*

Applicant, county of Contra Costa, authorized to construct a highway beneath the tracks of Santa Fe railway company east of the city of Pittsburg, the expense thereof to be borne 50 per cent by the county and 50 per cent by the railroad company; also to construct a highway at separate grades, either above or below grades, as determined by supplemental order, across tracks of Southern Pacific Company and Santa Fe railway company, the expense thereof to be borne 50 per cent by the county and 25 per cent by each of the railroad companies.

*T. D. Johnston*, for Contra Costa County.

*Geo. D. Squires*, for Southern Pacific Company.

*J. W. Walker*, for The Atchison, Topeka and Santa Fe Railway Company.

*R. M. Jones*, for city of Pittsburg.

*GORDON*, Commissioner.

**OPINION.**

The two applications considered in this opinion and order were filed together and, as they cover crossings on the same proposed highway, were heard together and can be decided together. After the first hearing it appeared possible that an alternative route for the highway, involving grade separation projects elsewhere than at the points planned, might be preferable to the location proposed by the county, and in order to bring the whole situation under consideration, and to bring the city of Pittsburg, which would be affected by a change of plan, into the matter formally, the two above cases were instituted on the commission's own motion.

Contra Costa County is engaged in building a highway through the county which will shorten the automobile route from Oakland to Stockton by sixteen miles. The crossings asked for are on this proposed road. It leaves an existing county road about one and one-quarter miles west of the city limits of Pittsburg, crosses the tracks of the Southern Pacific and the Santa Fe at a point where they are parallel to and about one hundred feet from each other, and continues in a generally easterly direction until it joins Tenth street at the city limits of Pittsburg. It follows West Tenth street to the easterly limits of Pittsburg, then swings south, crosses the tracks of the Santa Fe and

joins a portion of the same road which has already been constructed north of the tracks of the Southern Pacific Company.

In Application No. 2815 the county asks permission to construct a subway under the Santa Fe tracks at the crossing east of the town, and in Application No. 2816 it asks authority to open a road, either above or below grade, across the tracks of both the Southern Pacific and the Santa Fe. Both of these crossings are outside the incorporated limits of Pittsburg. Between the two subways there will be one main line grade crossing on the tracks of both railroads, Railroad avenue, a north and south street running south from Pittsburg for some distance into the country. In addition to these crossings there will also be a crossing with a spur track of the Santa Fe which serves several industries on the north side of Pittsburg.

It was in the hope of avoiding these grade crossings that the two cases were instituted. The alternative location suggested was the use of an existing county highway on the south side of the Southern Pacific's tracks from the westerly crossing, as proposed, to or near Railroad avenue where an overhead crossing of the Southern Pacific would be built, from the east end of which the highway would continue on the north side of the Southern Pacific's tracks, and close to them, until it joined that portion of the highway now constructed. One grade crossing would have been necessary with a track connecting the Southern Pacific and the Santa Fe, to the east of Railroad avenue, but as plans are under way for the removal of that track this route would eventually have been without a grade crossing. As far as through traffic is concerned this route would have been ideal, but traffic to and from Pittsburg would still have had to cross at grade the main line track of the Santa Fe on Railroad avenue, and to make the two construction schemes comparable, as far as safety is concerned, it would have been necessary to construct also a subway on Railroad avenue beneath the tracks of the Santa Fe.

At the final hearing estimates were presented showing the costs of the viaduct over the Southern Pacific and the subway under the Santa Fe on this alternative scheme, and it clearly appeared that the construction would cost about twice what it would cost on the other, that is the original, route. Both separations under the alternative scheme, furthermore, would have fallen within the limits of the city of Pittsburg, which is without money to assume any expense of grade separation work, and it is the policy of the supervisors of Contra Costa County to spend no money for highways within the limits of incorporated cities. Even if the financial difficulties could have been overcome, the latter scheme would not have been satisfactory to Pittsburg, as it would have resulted in a subway in the town and through traffic would have been diverted from it.

The only objections to the original scheme are the crossing of the spur track of the Santa Fe and the crossings on the main lines of the two railroads at Railroad avenue. When the new county road is built, however, the traffic on Railroad avenue will be comparatively light and it is not a difficult matter to safeguard a crossing of a spur track; but this spur track crossing, it appears, may be more or less temporary, as a project is now under way to relocate it so it will leave the main line at a point east of the east subway and will consequently not cross the new highway. On the whole, I believe the original scheme should be followed both on account of the difficulties I have mentioned and because the advantages of the alternative scheme are not great enough to warrant the additional cost even if they could be overcome.

The county plans to construct the subway east of the town at once and to defer the construction of the crossing west of the town until next year. It is necessary, however, for it to know definitely whether it can secure permission to make this crossing at separated grades and what portion of the expense will be assessed against the railroad companies. The county expressed a willingness to assume half the expense of both grade separation projects, and this appears to me to be a fair division. Definite plans for the subway east of town have been drawn and the cost will be approximately \$17,000.00. At the crossing west of town the engineering studies are not yet complete enough to decide whether the crossing should be made by building the highway over the tracks or under them. The topography of the country lends itself readily to either type of construction. It is possible to build a subway or a viaduct of concrete, wood or steel, and although estimates have been made which are close enough to show that a separation is entirely reasonable and feasible, prices of material are changing so rapidly that it is impossible to determine now what the most economical construction will be when the county is ready to build a year from now.

The crossing east of Pittsburg can be disposed of at once, and permission can be given the county to make the crossing west of town at separated grades, the details of which can be reserved for a supplemental order. I have already indicated how I think the expense of these two grade separations should be divided. I recommend the following form of order:

#### ORDER.

County of Contra Costa having applied to the commission for permission to construct a highway over the tracks of The Atchison, Topeka and Santa Fe Railway Company and the Southern Pacific Company, as shown by the maps attached to the application and discussed in the foregoing opinion; and the commission having instituted an investigation, on its own motion, of the grade crossing situation around Pittsburg, and being fully apprised in the premises,

*It is hereby ordered* that cases No. 1120 and No. 1121 be and the same hereby are dismissed.

*It is hereby further ordered* that permission be and the same hereby is granted the county of Contra Costa to construct its highway beneath the tracks of The Atchison, Topeka and Santa Fe Railway Company at the point and in the manner shown by the map attached to Application No. 2815; the expense of this construction to be borne fifty (50) per cent by Contra Costa County and fifty (50) per cent by The Atchison, Topeka and Santa Fe Railway Company. All clearances shall be made in accordance with this commission's General Order No. 26.

*It is hereby further ordered* that permission be and the same hereby is granted county of Contra Costa to construct its highway at separated grades, either above or below the tracks of The Atchison, Topeka and Santa Fe Railway Company and Southern Pacific Company in a manner to be determined hereafter by the commission and covered by a supplemental order; the expense of this construction shall be borne fifty (50) per cent by Contra Costa County, twenty-five (25) per cent by Southern Pacific Company and twenty-five (25) per cent by The Atchison, Topeka and Santa Fe Railway Company.

*It is hereby further ordered* that, after the construction of the subway east of town (Application No. 2815) all engines, trains and cars operating over The Atchison, Topeka and Santa Fe's spur track across this highway shall stop before crossing the same and shall not proceed until it has been ascertained that it is safe to do so.

The commission reserves the right to make such further orders relative to the construction, operation, maintenance and protection of said crossings as to it may seem right and proper, and to revoke its permission if, in its judgment, the public convenience and necessity demand such action.

Dated at San Francisco, California, this twenty-fourth day of September, 1917.

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Decisions Nos. 4670, 4671 and 4672, grade crossings; not printed. See end of volume.  
DECISION No. 4673.

**IN THE MATTER OF THE APPLICATION OF SOUTHERN COUNTIES GAS COMPANY OF CALIFORNIA FOR AUTHORITY TO ISSUE AND SELL ADDITIONAL BONDS IN THE AMOUNT OF THREE HUNDRED SIXTY-FOUR THOUSAND DOLLARS.**

Application No. 2974.

*Decided September 26, 1917.*

BY THE COMMISSION.

**FOURTH SUPPLEMENTAL ORDER.**

Good cause appearing,

*It is hereby ordered* that Condition No. 1 of the order in Decision No. 4548, dated August 15, 1917, and Condition No. 1 of the order in

Decision No. 4618, dated September 5, 1917, be and the same are hereby amended so as to permit Southern Counties Gas Company of California to sell the bonds authorized to be issued pursuant to said Decisions No. 4548 and No. 4618 at not less than 86½ per cent of their face value plus accrued interest.

*It is hereby further ordered* that Decision No. 4548, dated August 15, 1917, and Decision No. 4618, dated September 5, 1917, shall remain in full force and effect except as modified by this fourth supplemental order.

Dated at San Francisco, California, this twenty-sixth day of September, 1917.

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DECISION No. 4674.

IN THE MATTER OF THE APPLICATION OF SANTA CLARA VALLEY AUTO LINE FOR AN ORDER DECLARING THAT PUBLIC CONVENIENCE AND NECESSITY REQUIRE THE OPERATION BY PETITIONER OF AN AUTOMOBILE STAGE SERVICE BETWEEN SAN FRANCISCO AND PALO ALTO.

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Application No. 3159.

*Decided September 26, 1917.*

A petition for a certificate for permission to operate auto busses as common carriers can be considered only from the standpoint as to whether or not public convenience requires such service. The law looks not to the desires or necessities of the operator but solely to the fact of whether or not the public requires the services proposed.

Where an existing utility in a certain territory is giving good service at rates as low as may reasonably be expected and meeting all requirements of the public in its territory for additional service the commission will be slow to permit a competitor to enter its field unless such competitor is able to show that it is able to render a materially better service or as good service at materially lower rates.

In connection with a petition for a certificate the burden of proof that the service proposed is required by the public rests with the petitioner.

The commission holds that the traveling public will receive more reliable service at more reasonable rates from established, responsible companies who are permitted to earn a reasonable return upon their investment than by permitting indiscriminate competition which would weaken the financial situation of each of the competitors and result in poor and unreliable service.

Petitioner having failed to show that the establishment of an additional auto-bus line between San Francisco and Palo Alto is required by the traveling public at the present time, petition for a certificate permitting operation between the above-named points dismissed.

*Harry G. McKannay*, for Applicant.

*J. E. McCurdy*, for Peninsula Rapid Transit Company, Protestant.

*Bishop & Bahler*, by *H. M. Wade*, for California Stages Company, Protestant.

*C. M. Spangler*, for Union Line, Protestant.

*H. M. Wade*, for Otto Rinckert and Floyd Hanchett, Protestants.

THELEN and GORDON, *Commissioners*.

#### OPINION.

Petitioner, a partnership, consisting of George A. Hensley and Alexander Russell, asks the Railroad Commission to make its order declaring that public convenience and necessity require the operation by petitioner of an automobile stage service between San Francisco and Palo Alto, Santa Clara County.

Public hearings were held herein on September 7 and 21, 1917, in San Francisco.

The petition herein is filed under the provisions of chapter 213, laws of 1917, approved May 10, 1917, and effective August 27, 1917 (Stats. 1917, p. 330), providing for the supervision and regulation of the transportation of persons and property for compensation over any public highway by automobiles, jitney busses, auto trucks, stages and auto stages.

Section 1 of chapter 213 defines the transportation companies which are subject to the act, to include all corporations, associations and persons owning or operating any automobile, jitney bus, auto truck, stage or auto stage, used in the transportation of persons or property as a common carrier for compensation over any public highway in this state, between fixed termini, or over a regular route and not operating exclusively within the limits of an incorporated city or town or of a city and county.

The words "between fixed termini or over a regular route" are defined to mean the termini or route between or over which any transportation company usually or ordinarily operates any automobile, jitney bus, auto truck, stage or auto stage, even though there may be departures from said termini or route, whether such departures be periodic or irregular. Whether or not any automobile, jitney bus, auto truck, stage or auto stage is operating "between fixed termini or over a regular route" within the meaning of the act, is made a question of fact on which the finding of the Railroad Commission is made final.

Section 2 provides that no automobile, jitney bus, auto truck, stage or auto stage for the transportation of persons or property for compensation on any public highway in this state shall be operated except in accordance with the provisions of the act.

Section 3 provides that no automobile, jitney bus, auto truck, stage or auto stage shall be operated as a common carrier for compensation on any public highway in this state, whether operated exclusively within



the limits of an incorporated city or town or otherwise, between any fixed termini between which or over any route over which it was not being actually operated in good faith on May 1, 1917, unless a permit has been secured from each county and each incorporated city or town within or through which such operations are carried on. The section provides in detail the procedure which must be followed before such permit may be granted.

Section 4 vests the Railroad Commission with power and authority to supervise every "transportation company" in the state, as defined by the act. The Railroad Commission is given power, by general order or otherwise, to prescribe rules and regulations applicable to any and all transportation companies. The orders, rules and regulations of the Railroad Commission shall take precedence over any ordinance or permit of any incorporated city or town, or county.

Section 5 provides for the granting by the Railroad Commission of certificates of public convenience and necessity and reads as follows:

Sec. 5. "No transportation company shall hereafter exercise any right or privilege under any franchise or permit hereafter granted by any incorporated city or town, city and county, or county, without having first obtained from the Railroad Commission a certificate declaring that public convenience and necessity require the exercise of such right or privilege, but no such certificate shall be required of any transportation company as to the fixed termini between which or the route over which it is actually operating in good faith on May 1, 1917. A transportation company may apply for a certificate of public convenience and necessity in advance of securing any franchise or permit for the use of the public highways constituting the proposed route. The Railroad Commission shall have power, with or without hearing, to issue said certificate as prayed for, or to refuse to issue the same, or to issue it for the partial exercise only of said privilege sought, and may attach to the exercise of the rights granted by said certificate such terms and conditions as, in its judgment, the public convenience and necessity may require.

"The Railroad Commission may at any time for a good cause suspend and upon notice to the grantee of any certificate and opportunity to be heard revoke, alter or amend any certificate issued under the provisions of this section."

Section 6 provides for the control by the Railroad Commission of the issue of capital stock, bonds, notes and other evidences of indebtedness of "transportation companies."

Section 7 provides that the procedure before the Railroad Commission and on the review of the Railroad Commission's decisions, as prescribed

by the Public Utilities Act, shall be applicable to the provisions of said chapter 213.

Section 8 prescribes the penalties which shall accrue for failure to comply with the requirements of the act or of any order, decision, rule, direction, demand or regulation of the Railroad Commission made under the act.

The act contains other provisions to which it is not necessary here to refer.

Petitioner proposes to operate an automobile stage service for the transportation of passengers and express packages between San Francisco and Palo Alto and intermediate points. Petitioner's route is to extend from San Francisco south, through the cities or towns of Visitation, South San Francisco, San Bruno, Burlingame, San Mateo, Belmont, San Carlos, Redwood City and Menlo Park to Palo Alto. Petitioner intends to operate from San Francisco via the Bay Shore Route through Visitation Valley to the state highway, at a point north of San Mateo, coming into the state highway at a point immediately south of San Bruno, and thence along the state highway to Palo Alto. Petitioner's northern terminus is to be on Fifth street, between Market and Mission streets, San Francisco, and the southern terminus at the Larkin Hotel, in Palo Alto.

The equipment proposed to be used consists of six automobiles of various makes, as follows:

Name	Seating capacity	Body type	Horsepower	State license number
White -----	27	Limousine bus	30	155525
Cadillac -----	10	Limousine bus	40	190479
Renault -----	27	Limousine bus	35-45	95118
Ford -----	8	Limousine bus	20	190023
Oldsmobile -----	8	Limousine bus	40	68962
Ford -----	10	Stage body	20	263704

The time schedule on which petitioner proposes to operate is a daily schedule, including Sundays, leaving San Francisco for Palo Alto every hour from 8.15 a.m. to 6.15 p.m., and leaving Palo Alto for San Francisco every hour from 8.15 a.m. to 6.15 p.m. Petitioner expects to make the run of 31 or 32 miles between San Francisco and Palo Alto in approximately one and one-half hours.

The fares to be charged by petitioner are as follows:

Between stations	San Francisco	Visitation	So. San Francisco	San Bruno	Burlingame	San Mateo	Belmont	San Carlos	Redwood City	Menlo Park	Palo Alto
San Francisco											
Visitation	\$.10										
So. San Francisco	.15	\$.10									
San Bruno	.15	.10	\$.05								
Burlingame	.20	.15	.10	\$.10							
San Mateo	.25	.20	.15	.15	\$.05						
Belmont	.30	.25	.20	.20	.15	\$.10					
San Carlos	.35	.30	.25	.25	.20	.15	\$.05				
Redwood City	.40	.35	.30	.30	.25	.20	.10	\$.05			
Menlo Park	.45	.40	.35	.35	.30	.25	.15	.10	\$.05		
Palo Alto	.50	.45	.40	.40	.35	.30	.20	.15	.10	\$.05	

No reduction for round trip. No commutation fares.

Mr. George A. Hensley, appearing for petitioner, testified that petitioner desires to enter into the business of operating between San Francisco and Palo Alto, entirely irrespective of the business of Camp Fremont at Menlo Park. He testified that petitioner proposes to make a stop on the state highway at Camp Fremont but that no attempt will be made to run up into the camp.

Protests against the granting of the petition herein were filed by Peninsula Rapid Transit Company, California Stages Company. The Union Line and a number of small operators.

Peninsula Rapid Transit Company has operated an automobile stage service for the transportation of passengers and express packages between San Francisco and Palo Alto since November 1, 1915. Prior to the burning of its equipment, hereinafter referred to, the Peninsula company operated twelve one-and-one-half-ton motor busses on white chassis with specially constructed coach bodies, each bus seating twenty-six passengers and the driver. The seats in the busses were heavily upholstered with leather, the windows were all plate glass and each bus contained a special smoking compartment.

The Peninsula company pioneered in the automobile stage business from San Francisco down the San Mateo peninsula and enjoyed considerable financial prosperity until July 21, 1917, on which day all the company's busses except one were burned. Within twenty-four hours, the company had made arrangements to lease temporarily enough automobiles to maintain its service and had placed orders for thirteen new White chassis to replace those which had been destroyed. Four of these chassis have arrived, have had bodies built thereon and are now in ser-

vice. The company expects to have the remaining number in service within two months.

The Peninsula company maintains a regular schedule, busses leaving the terminus at Fifth and Market streets in San Francisco each day at 6.25 a.m. and half hourly thereafter, until 1.25 a.m. of the next day, and Palo Alto from the terminus at the Hotel Larkin from 7.55 a.m. each day, half hourly until 10.25 p.m. on week days and 11.55 p.m. on Saturdays and Sundays. The company expects, within the next two months, to establish and maintain a twenty-minute service in lieu of the present thirty-minute service. The Peninsula company transports all local passengers who offer themselves for carriage, in addition to through passengers.

In August, 1917, the Peninsula company carried approximately 50,193 passengers at an average of 33½ cents per passenger. The company's busses have a capacity to handle 1,700 through passengers daily.

The Peninsula company has developed its business in competition with the Southern Pacific Company, operating fifty-two trains daily from San Francisco down the San Mateo peninsula, and the United Railroads of San Francisco, operating a fifteen and twenty minute electric interurban service down the peninsula. The company carries accident insurance policies of \$5,000.00 with a maximum of \$50,000.00 on each bus.

The Peninsula company urges that it has educated the public of the San Mateo peninsula to the use of the auto bus as a vehicle of common carrier transportation and that it should now be permitted to enjoy the benefit of the business which it has developed.

California Auto Stages is an association of automobile owners who operate twenty-three or twenty-four touring cars daily between San Francisco and San Jose. Stages leave from No. 3 Fifth street, between Market and Mission streets, San Francisco, daily twenty minutes after the hour from 8.20 a.m. to 8.20 p.m., for San Jose and return and each fifty minutes after the hour for Palo Alto and return.

The Union Line is an association of automobile owners who operate fourteen touring cars daily between San Mateo and Palo Alto, leaving San Mateo for Palo Alto at 6.55 a.m. and 7.25 a.m., and then every twenty minutes until 6.05 p.m.; after 6.05 p.m. until 9.05 p.m. every hour; and between Palo Alto and San Mateo, leaving Palo Alto at 8 a.m. and every twenty minutes thereafter until 6.55 p.m. and every hour thereafter until 9.45 p.m.

A number of smaller operators operate one or two touring cars each over portions of the route between San Francisco and Palo Alto.

Protestants all urge that the present operators are equipped to handle all the business, that they are giving good service at reasonable rates and that newcomers should not now be permitted to invade the territory in which they have built up the business.

As has been noted, section 5 of the act of May 10, 1917, provides in part that no transportation company shall commence operations unless it has first secured from the Railroad Commission a certificate declaring "that public convenience and necessity" require such operation. This is the only test prescribed by the statute. Accordingly, when application is made to the Railroad Commission for an order authorizing automobile stages to operate, the sole test which the Railroad Commission may apply is whether or not the convenience and necessity of the public require that the service as contemplated by petitioner shall be rendered. This is not a question as to whether the public authorities shall extend a favor to existing operators by refusing to permit newcomers to enter the field or whether they shall extend a favor to the newcomer by permitting him to compete with existing companies. No person has a vested right to engage in a public utility service. The law looks not to the operator but to the convenience and necessity of the public and clearly contemplates that applications of this character shall be decided on the basis of this test alone and not on the basis of the desires or necessities of the operators. Operators may be permitted to enter the field only at such times and in such places and under such conditions as will best subserve the convenience and necessity of the public.

In cases involving the classes of utilities specified in section 50 of the Public Utilities Act, the Railroad Commission has consistently held that if the existing utility in a certain territory is giving good service at rates as low as may reasonably be expected and is meeting all the requirements of the public in such territory for additional service, the Railroad Commission will be slow to permit a competitor to enter the field unless the competitor by reason of superior natural advantages or patented processes or other means can give to the public either a service materially better or rates materially lower. This conclusion is based on the self-evident proposition that a utility which secures all the business in a certain territory is much better able to give good service at reasonable rates and to make the necessary extensions than though its revenues are diminished through competition. It is a well understood maxim that in cases of competition in public utility service, the public, in the long run, generally pays the bills, including the cost of all duplication and other economic waste.

In *Pacific Gas and Electric Company vs. Great Western Power Company*, Case No. 269, decided on June 18, 1912 (Vol. 1, Opinions and

Orders of the Railroad Commission of California, p. 203), the Railroad Commission, at page 209, said:

"It certainly is true that where a territory is served by a utility which has pioneered in the field, and is rendering cheap and efficient service and is fulfilling adequately the duty which, as a public utility, it owes to the public, and the territory is so generally served that it may be said to have reached the point of saturation as regards the particular commodity in which such utility deals, then certainly the design of the law is that the utility shall be protected within such field; but when any one of these conditions is lacking, the public convenience may often be served by allowing competition to come in."

In its decision in the Oro Electric case rendered on April 29, 1913, in Application No. 347 (Vol. 2, Opinions and Orders of the Railroad Commission of California, p. 748), the Railroad Commission, at page 755, said:

"A wise public policy demands that utilities which are doing their full duty to the public shall be treated with fairness and justice and liberality, and that they shall receive such protection to their investments as they may deserve, subject always to the contingency that if another utility can, by reason of superior natural advantages or patented processes or other means, give to the public a service as good as the existing utility, at rates materially less, the interests of the public must be deemed paramount and the new utility must be given an opportunity to serve the public. Under this new state policy, competition between public utilities is not of itself necessarily a good thing. Whether or not it is a good thing depends upon the results which flow from it in each particular case."

The foregoing decisions were rendered under the provisions of section 50 of the Public Utilities Act containing provisions with reference to certificates of public convenience and necessity almost identical with the provisions of section 5 of the act of May 10, 1917.

We see no good reason which would justify a failure to apply to the present situation and to similar situations the principles announced in the Great Western Power Company case and the Oro Electric case, subject, of course, to such qualifications and modifications as may be necessary because of the nature of the business of automobile stages and the conditions under which such business is conducted.

The burden of proof, if a petitioner asks for an order declaring that public convenience and necessity require that he shall commence operations in a territory which is served by an existing utility, is upon the petitioner. He must show, affirmatively, that public convenience and necessity require that he shall enter the field. *Pacific Gas and Electric Company vs. Great Western Power Company*, *supra*, page 213.

The evidence presented by petitioner herein to show that public convenience and necessity require that he be permitted to operate between San Francisco and Palo Alto in competition with the existing operators is not persuasive. This evidence consisted principally of testimony showing the number of passengers carried by the busses of Peninsula Rapid Transit Company at the point of loading at Fifth and Market streets, in San Francisco, and also at a point some sixteen miles south thereof. The testimony shows that at times there are not enough seats to accommodate all the passengers at the San Francisco terminus of the company, but that at the other points at which observations were made, all the passengers were seated. The testimony, however, shows that the conditions at the present time are abnormal, due partly to the strike on the United Railroads of San Francisco and partly to the necessity for transporting soldiers temporarily to and from Tanforan. On the other hand, the testimony shows that the service of the existing transportation companies is adequate to handle the entire business which is offered with the exception occasionally of a few passengers during the "rush hours," even under the existing abnormal conditions, and that the existing companies are willing and able to provide additional service on their respective lines with the growth of the business.

The situation resulting from the establishment of the military camp at Camp Fremont is not involved in this proceeding, for the reason that petitioner desires to enter into the business entirely irrespective of this situation and not in reliance thereon.

No complaints against the rates of the existing transportation companies appear in the record herein.

We have no doubt that the traveling public will receive more reliable, safe and comfortable service, at more reasonable rates, from established, responsible companies who are permitted to earn a reasonable return on their investment than by permitting indiscriminate competition which will weaken the financial situation of each of the competitors and which may prevent any of them from growing sound and stable.

We find as a fact from the record herein that public convenience and necessity do not require that petitioner operate an automobile stage service between San Francisco and Palo Alto, as requested in the petition herein, and recommend that the petition be denied.

We submit the following form of order:

#### ORDER.

Santa Clara Valley Auto Line having filed herein its petition for an order declaring that public convenience and necessity require the operation by it of an automobile stage service between San Francisco and Palo Alto, public hearings having been held thereon, the matter having been submitted and being now ready for decision, the Railroad Commis-

sion hereby finds as a fact that public convenience and necessity do not require the operation by petitioner of an automobile stage service, as requested in the petition herein.

Basing its order on the foregoing finding of fact and on the other findings of fact which are contained in the opinion which precedes this order,

*It is hereby ordered* that the above-entitled proceeding be and the same is hereby dismissed.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the state of California.

Dated at San Francisco, California, this twenty-sixth day of September, 1917.

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DECISION No. 4675.

IN THE MATTER OF THE APPLICATION OF J. R. ANDRUS, DOING BUSINESS UNDER THE NAME OF ANDRUS TAXI SERVICE, FOR AN ORDER DECLARING THAT PUBLIC CONVENIENCE AND NECESSITY REQUIRE THE OPERATION BY PETITIONER OF AN AUTOMOBILE STAGE SERVICE BETWEEN CAMP FREMONT AND PALO ALTO.

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Application No. 3073.

*Decided September 26, 1917.*

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Applicant granted a certificate permitting the operation of three auto busses between Palo Alto and Camp Fremont, provided that he shall first secure all necessary franchises and permits from public authorities of the district through which he proposes to operate.

*E. D. Larkin*, for J. R. Andrus.

*J. E. McCurdy*, for Peninsula Rapid Transit Company, Protestant.

*Bishop & Bahler*, by *H. M. Wade*, for California Stages Company, Protestant.

*O. M. Spangler*, for Union Line, Protestant.

*H. M. Wade*, for Otto Rinekert and Floyd Hanchett, Protestants.

THELEN and GORDON, *Commissioners*.

**OPINION.**

J. R. Andrus, doing business under the name of Andrus Taxi Service, asks that the Railroad Commission make its order declaring that public convenience and necessity require the operation by petitioner of three automobiles as common carriers of passengers between Camp Fremont and Palo Alto.



A public hearing herein was held in San Francisco on September 7, 1917.

For a statement of the provisions of chapter 213, laws of 1917, approved May 10, 1917, providing for the supervision and regulation of transportation companies, of the principles to be applied in passing on petitions of this character and of the automobile stage situation between San Francisco and Palo Alto, reference is hereby made to the decision this day rendered in Application No. 3159—Santa Clara Valley Auto Line.

Petitioner has heretofore been engaged in the operation of an automobile taxi service in and about the city of Palo Alto. He now proposes to operate three automobiles as common carriers of passengers between Hotel Larkin, in Palo Alto, and Camp Fremont. Petitioner is at the present time operating to the camp at Camp Fremont, located on Santa Cruz avenue, at a point approximately one mile distant from the state highway. Petitioner and Mr. C. H. Cornelius are the only automobile stage operators who are operating to the location of the present camp at Camp Fremont.

The equipment which petitioner proposes to operate is as follows:

Make of car	Horsepower	Seating capacity	State motor vehicle license number
Wichita -----	35	25	14827
Locomobile -----	30	14	207398
Ford -----	20	16	205893

Petitioner has been operating this service since the establishment of the camp at Camp Fremont and prior to the effective date of chapter 213, laws of 1917.

Due to the uncertain conditions which have been prevailing at Camp Fremont, petitioner has not found it possible to establish a regular schedule but has been giving service between the hours of 5 and 11 p.m., such hours being those in which the soldiers at Camp Fremont are relieved from duty and desire transportation between Camp Fremont and Palo Alto.

The petition, as originally filed herein, specified a fare of five cents each way between Palo Alto and the entrance to Camp Fremont, on the state highway. The testimony shows that the present location of the camp at Camp Fremont is opposite the "Oregon Headquarters" on Santa Cruz avenue, about one mile west of the state highway. Petitioner accordingly requested authority to amend its proposed schedule of fares so as to provide for a fare of ten cents between the "Oregon Headquarters" at Camp Fremont and Palo Alto.

Due to the establishment of the United States Army Camp at Camp Fremont, five companies of soldiers are now stationed at Camp Fremont and several hundred workmen are there employed. Palo Alto is the nearest city to Camp Fremont and a large number of soldiers each evening patronize its theaters and business houses. The service proposed by petitioner offers a convenient method of transportation at a reasonable rate of fare.

Petitioner has not as yet secured permits from the city of Palo Alto and the county of Santa Clara, as provided by section 3, chapter 213, laws of 1917, providing for the supervision and regulation of transportation companies, but proposes to make application for such permits.

We find as a fact that public convenience and necessity require the operation by J. R. Andrus, doing business under the name of Andrus Taxi Service, of three automobiles as common carriers of passengers between Palo Alto and Camp Fremont, subject to the conditions specified in the order herein.

We submit the following form of order:

#### ORDER.

J. R. Andrus, doing business under the name of Andrus Taxi Service, having filed his petition herein asking that the Railroad Commission make its order declaring that public convenience and necessity require the operation by petitioner of three automobiles as common carriers of passengers between Palo Alto and Camp Fremont, a public hearing having been held, the matter having been submitted and being now ready for decision, the Railroad Commission hereby finds as a fact that public convenience and necessity require the operation by J. R. Andrus, doing business under the name of Andrus Taxi Service, of three automobiles as common carriers of passengers between Palo Alto and Camp Fremont, subject to the conditions hereinafter specified.

Basing its order on the foregoing finding of fact and on the other findings contained in the opinion which precedes this order.

The Railroad Commission hereby declares that public convenience and necessity require the operation by J. R. Andrus, doing business under the name of Andrus Taxi Service, of three automobiles as common carriers of passengers between Palo Alto and Camp Fremont, provided that this order shall not become effective until petitioner has secured from the Railroad Commission a supplemental order reciting that petitioner has filed herein certified copies of permits from the city of Palo Alto and from the county of Santa Clara, as provided by section 3 of chapter 213, laws of 1917; and provided, further, that the rights and privileges hereby granted shall not be assigned or transferred unless the Railroad Commission's written consent to such assignment or transfer shall first have been secured.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the state of California.

Dated at San Francisco, California, this twenty-sixth day of September, 1917.

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DECISION No. 4676.

IN THE MATTER OF THE APPLICATION OF C. H. CORNELIUS FOR AN ORDER DECLARING THAT PUBLIC CONVENIENCE AND NECESSITY REQUIRE THE OPERATION BY HIM OF TWO AUTOMOBILES AS COMMON CARRIERS OF PASSENGERS AND EXPRESS PACKAGES BETWEEN REDWOOD CITY AND PALO ALTO.

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Application No. 3082.

*Decided September 26, 1917.*

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Applicant granted a certificate permitting the operation of two auto busses between Redwood City and Palo Alto, provided that all necessary franchises and permits are secured from public authorities of the territory through which he proposes to operate.

*C. H. Cornelius, in propria persona.*

*J. E. McCurdy, for Peninsula Rapid Transit Company, Protestant.*

*Bishop & Bahler, by H. M. Wade, for California Stages Company, Protestant.*

*O. M. Spangler, for Union Line, Protestant.*

*H. M. Wade, for Otto Rinckert and Floyd Hanchett, Protestants.*

THELEN and GORDON, *Commissioners.*

**OPINION.**

C. H. Cornelius makes application herein for an order declaring that public convenience and necessity require the operation by him of two automobiles as common carriers of passengers and express packages between Redwood City and Palo Alto.

Public hearings were held in San Francisco on September 7 and 21, 1917.

One of the two automobiles as to which Mr. Cornelius desires the Railroad Commission's authorization is a five-passenger Ford touring car, which he has operated between Redwood City and Palo Alto from July 24, 1917, to the time of the hearing herein. The other car is a Ford car on which he has built a body seating fourteen passengers. This car Mr. Cornelius has been operating since approximately August 15, 1917.

The first car has been operated on a daily schedule leaving Redwood City at 9.45 a.m., and running until 10 o'clock p.m. The second car has been operated primarily between Camp Fremont and Palo Alto. Mr. Cornelius intends to establish a regular schedule for this car as soon as conditions at Camp Fremont become more settled. Mr. Cornelius and the Andrus Taxi Service are the only automobile operators who have operated their automobiles up Santa Cruz avenue from the state highway to the point at which the camp is now located. While Mr. Cornelius operates the second car ordinarily between Camp Fremont and Palo Alto, he desires to have the right to operate it also from Camp Fremont to Redwood City.

The fares which Mr. Cornelius desires to charge are as follows:

Between Palo Alto and Menlo Park .....	5c
Between Palo Alto and the present camp at Camp Fremont, on Santa Cruz avenue .....	10c
Between Palo Alto and Redwood City .....	15c
Between the present camp at Santa Cruz avenue at Camp Fremont and Redwood City .....	10c

The Palo Alto terminus of Mr. Cornelius is near the Southern Pacific depot, outside of the corporate limits of Palo Alto. The Redwood City terminus is at the depot of the Southern Pacific Company.

Mr. Cornelius has not secured a permit from the counties of San Mateo and Santa Clara and the city of Redwood City, as provided by section 3 of chapter 213, laws of 1917. He intends to make application promptly for such permits. The order herein will not become effective until the Railroad Commission has made a supplemental order herein reciting that such permits have been secured.

For a statement of the leading provisions of the act of May 10, 1917, of the principles to be applied in applications of this character and of the automobile situation between San Francisco and Palo Alto, reference is hereby made to the decision this day rendered in Application No. 3159—Santa Clara Valley Auto Line.

Mr. Cornelius commenced operations in good faith with both his cars prior to the effective date of chapter 213, laws of 1917. The operation of his cars fulfills a public need. As already indicated, he and one other operator are the only ones who operate up Santa Cruz avenue to the present site of the camp at Camp Fremont. The other operators passing Camp Fremont all run on the state highway at a distance of approximately one mile from the present location of the camp at Camp Fremont.

We find that public convenience and necessity require the operation by C. H. Cornelius of two automobiles as common carriers of passengers and express packages between Palo Alto and Redwood City, on the conditions specified in the order herein.

We submit the following form of order:

**ORDER.**

C. H. Cornelius having filed herein a petition asking that the Railroad Commission declare that public convenience and necessity require the operation by said Cornelius of two automobiles as common carriers of passengers and express packages between Palo Alto and Redwood City, public hearings having been held, the matter having been submitted and being now ready for decision, the Railroad Commission hereby finds as a fact that public convenience and necessity require the operation by C. H. Cornelius of two (2) automobiles as common carriers of passengers and express packages between Palo Alto and Redwood City, on the conditions hereinafter specified.

Easing its order on the foregoing finding of fact and on the other findings of fact contained in the opinion which precedes this order.

The Railroad Commission hereby declares that public convenience and necessity require the operation by C. H. Cornelius of two (2) automobiles as common carriers of passengers and express packages between Palo Alto and Redwood City, provided that this declaration shall not become effective until said Cornelius has secured from the Railroad Commission a supplemental order herein reciting that said Cornelius has filed herein certified copies of permits from the county of San Mateo, the county of Santa Clara and the city of Redwood City, as provided by section 3 of chapter 213, laws of 1917; and provided, further, that the rights and privileges herein granted shall not be assigned or transferred unless the written consent of the Railroad Commission to such assignment or transfer has first been secured.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the state of California.

Dated at San Francisco, California, this twenty-sixth day of September, 1917.

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DECISION No. 4677.

IN THE MATTER OF THE APPLICATION OF RED STAR STAGE LINE FOR AN ORDER DECLARING THAT PUBLIC CONVENIENCE AND NECESSITY REQUIRE THE OPERATION BY IT OF AN AUTOMOBILE STAGE SERVICE BETWEEN SAN MATEO AND MENLO PARK, AND OF RED STAR STAGE LINE TRANSPORTATION COMPANY FOR AN ORDER AUTHORIZING THE ISSUE OF CAPITAL STOCK.

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Application No. 3122.

*Decided September 26, 1917.*

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Applicant, Red Star Stage Line, being unable to show that public necessity requires the operation of additional auto-bus service between the cities of San Mateo and Menlo Park, petition for certificate permitting such operation denied.

The Railroad Commission can not authorize the issuance of capital stock covering franchises or permits at a value in excess of their actual cost to original grantee, nor can it authorize the issuance of stock to pay operating expenses or in exchange for property in excess of the actual fair value of such property.

Petition of the Red Star Stage Line Transportation Company for permission to issue stock dismissed, without prejudice, pending the submission of a more acceptable form of financing.

*Wiley F. Crist*, for Red Star Stage Line.

*J. E. McCurdy*, for Peninsula Rapid Transit Company, Protestant.

*Bishop & Buhler*, by *H. M. Wade*, for California Stages Company, Protestant.

*O. M. Spangler*, for Union Line, Protestant.

*H. M. Wade*, for Otto Rinckert and Floyd Hanchett, Protestants.

THELEN and GORDON, *Commissioners*.

#### OPINION.

Red Star Stage Line asks that the Railroad Commission make its order declaring that public convenience and necessity require the operation by petitioner of an automobile stage service between San Mateo and Menlo Park.

In a supplemental petition herein, Red Star Stage Line Transportation Company asks authority to issue capital stock in exchange for the property and business of Neil Forrest, operating under the name of Red Star Stage Line, and also the issue of additional capital stock to secure funds for the purchase of additional equipment and for other purposes hereinafter referred to.

Public hearings were held in San Francisco on September 7 and 21, 1917.

Since December, 1914, Neil Forrest, doing business under the name of Red Star Stage Line, has operated an automobile stage line from San Francisco down the San Mateo Peninsula to San Mateo and thence westerly to Half Moon Bay and Pescadero and return.

Petitioner now desires permission to continue its operations from San Mateo south over the state highway to Menlo Park and return. If this application is granted, petitioner will operate an automobile service from San Francisco to Menlo Park in competition with the present established operators and will continue its service to and from Half Moon Bay and Pescadero. Petitioner desires primarily to serve Camp Fremont at Menlo Park and does not desire to handle local traffic unless passengers insist on being carried.

Petitioner proposes to operate seven and twelve-passenger automobiles on the San Francisco-Menlo Park service, two of these automobiles being Jefferys and one an Oldsmobile.

Petitioner proposes to operate an hourly schedule, leaving its terminus at 920½ Market street, San Francisco, every hour from 8 a.m.

to 10 p.m., the last stage leaving at 10.15 p.m., and leaving Menlo Park at 8.30 a.m., and every hour thereafter until 11.30 p.m.

Petitioner proposes to charge a fare of 60 cents between San Francisco and Menlo Park, this fare being in excess of the fare charged by the existing operators.

Petitioner has secured no permit from the county of San Mateo or from the cities of San Mateo and Redwood City, as required by section 3 of the act of May 10, 1917, providing for the supervision and regulation of transportation companies.

Protests against the granting of the petition herein were filed by Peninsula Rapid Transit Company, California Stages Company, The Union Line and a number of smaller operators. Protestants urge that they are rendering adequate service at reasonable rates and are handling such business as is offered and contend that competitors should not now be permitted to divide with them the business which they have developed.

For a statement of the leading provisions of the act of May 10, 1917, of the principles to be applied in applications of this character and of the automobile stage situation between San Francisco and Palo Alto, reference is hereby made to the decision this day rendered in Application No. 3159—Santa Clara Valley Auto Line.

Under the provisions of section 5 of the act of May 10, 1917, there is cast upon the petitioner in applications of this character the burden of showing affirmatively that public convenience and necessity require the operation by him of the contemplated automobile service.

Petitioner herein presented the testimony of only two witnesses, Mr. W. R. Egan, one of its employees, and Mr. Neil Forrest, the owner of its property and business. Neither of these witnesses gave any direct testimony with reference to conditions existing between San Mateo and Menlo Park, or showing that public convenience and necessity require the operation of the service as proposed by petitioner. Reference was made to the establishment of Camp Fremont at Menlo Park, but no testimony was presented to show that the transportation needs of Camp Fremont are not being adequately met by the existing operators.

Mr. Forrest testified that he has passed only once between San Mateo and Palo Alto within the last sixty days and that he has no personal knowledge of traffic conditions or requirements in the territory between San Mateo and Palo Alto.

This testimony is not sufficient to show that public convenience and necessity require the operation by petitioner of the proposed service between San Mateo and Menlo Park.

The supplemental petition filed herein alleges, in part, that Red Star Stage Line Transportation Company was incorporated under the laws

of California on August 17, 1917; that its authorized capital stock is \$50,000.00 par value, divided into 5,000 shares of the par value of \$10.00 per share; that one share of capital stock has been issued to each of three directors of the corporation; that Mr. Neil Forrest, who has been operating an automobile stage service between San Francisco, San Mateo, Half Moon Bay and Pescadero, under the name of Red Star Stage Line, has offered to sell to the new corporation the entire property and business of Red Star Stage Line in exchange for the issue to him by the new corporation of 2,500 shares of its capital stock, having the par value of \$25,000.00, and that the new corporation desires to accept the offer, to make the purchase and to issue said amount of capital stock accordingly; and that the new corporation desires to issue additional capital stock at 90 per cent of its par value for the purpose of purchasing additional equipment and for other purposes hereinafter referred to.

Mr. Forrest testified that the property which he desires to convey to Red Star Stage Line Transportation Company has the following values:

Franchise .....	\$15,000
Four Jeffery autos .....	8,000
One Oldsmobile .....	3,300
Extra tires and equipment .....	1,000
Machinery and garage at 3525 Mission street, San Francisco .....	1,000
Office furniture .....	500
Accident insurance policies .....	---

Section 6 of the act of May 10, 1917, referring to the issue of capital stock, bonds and notes by transportation companies, provides that, except as otherwise provided, such issues shall be governed by section 52 of the Public Utilities Act. The latter section provides, in part, that the Railroad Commission shall have no power to authorize the capitalization of any franchise or permit in excess of the amount actually paid to the state or to a political subdivision thereof, as a consideration for the grant of the franchise or permit. Mr. Forrest has received no written franchise or permit from any public authority and has made no payment for any franchise or permit. The Railroad Commission, accordingly, does not have power to authorize the issue of capital stock herein by reason of any assumed franchise or permit value. At the hearing, petitioner urged that its business as a "going concern" was worth \$15,000.00 in excess of the value of its automobiles and other tangible property. Petitioner presented testimony to show that its profits had been small until recently, although it has purchased most of its automobiles from the proceeds of its business. Petitioner has made no allowance for depreciation of its automobiles or other equipment. There is nothing in the testimony to show that this commission



can reasonably authorize the issue of capital stock in excess of the present fair value of petitioner's automobiles and other equipment.

The testimony shows that the values assigned by petitioner to its automobiles are their cost new, although the machines have been in service from one to three years. Capital stock can be authorized up to the present fair value of these automobiles, and not on the basis of their original cost.

The supplemental petition herein alleges that the new corporation desires to issue additional capital stock and to use the proceeds thereof for the following purposes:

1. To purchase, lease or rent additional automobiles or automobile trucks.

2. To pay for the operating and overhead expenses.

It is, of course, obvious that capital stock can not be issued to pay for operating expenses.

We have no objection to the transfer to the new corporation of the existing property and business, provided that such transfer is made in exchange for the issue of only a reasonable amount of capital stock, and we desire to be helpful in enabling petitioner to secure funds for such additional equipment as petitioner may need in connection with its present service. The plan of finance, however, presented in the supplemental petition herein, violates a number of the provisions of the statutes of this state, as well as being based on inflated values which can not be allowed by the commission.

While we shall recommend that the supplemental petition herein be denied, this action will be without prejudice to the renewal of the petition when the parties shall hereafter present an acceptable plan of finance.

We submit the following form of order:

#### ORDER.

Neil Forrest, doing business under the name of Red Star Stage Line, having filed herein a petition asking that the Railroad Commission make its order declaring that public convenience and necessity require the operation by petitioner of an automobile stage service between San Mateo and Menlo Park, and Red Star Stage Line Transportation Company having filed herein a supplemental petition asking authority to issue capital stock for the purposes specified in the opinion which precedes this order, and public hearings having been held and the matter having been submitted and being now ready for decision, the Railroad Commission hereby finds as a fact that public convenience and necessity do not require the operation by Neil Forrest, doing business under the name of Red Star Stage Line, of an automobile stage service between San Mateo and Menlo Park, as requested in the petition herein.

Basing its order on the foregoing finding of fact and on the other findings which are contained in the opinion which precedes this order, *It is hereby ordered* as follows:

1. The petition of Neil Forrest, doing business under the name of Red Star Stage Line, that the Railroad Commission make its order declaring that public convenience and necessity require the operation by him of an automobile stage service between San Mateo and Menlo Park, is hereby denied.

2. The petition of Red Star Stage Line Transportation Company for an order authorizing the issue of capital stock for the purposes specified in the opinion which precedes this order is hereby denied, without prejudice.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the state of California.

Dated at San Francisco, California, this twenty-sixth day of September, 1917.

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DECISION No. 4678.

IN THE MATTER OF THE APPLICATION OF REDWOOD TRANSIT COMPANY FOR AN ORDER DECLARING THAT PUBLIC CONVENIENCE AND NECESSITY REQUIRE THE OPERATION OF TWO AUTOMOBILES AS COMMON CARRIERS OF PASSENGERS BETWEEN REDWOOD CITY AND CAMP FREMONT, MENLO PARK.

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Application No. 3161.

*Decided September 26, 1917.*

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Applicant granted a certificate permitting the operation of two motor busses between Redwood City and Camp Fremont, provided such permit shall not be transferred without permission of this commission.

*George H. Irving*, for Redwood Transit Company.

*J. E. McCurdy*, for Peninsula Rapid Transit Company, Protestant.

*Bishop & Bahler*, by *H. M. Wade*, for California Stages Company, Protestant.

*O. M. Spangler*, for Union Line, Protestant.

*H. M. Wade*, for Otto Rinckert and Floyd Hanchett, Protestants.

THELEN and GORDON, *Commissioners*.

**OPINION.**

Redwood Transit Company asks that the Railroad Commission make its order declaring that public convenience and necessity require the operation by it of two motor busses as common carriers of passengers between Redwood City and Camp Fremont, Menlo Park.

A public hearing was held in San Francisco on September 7, 1917.

For a statement of the leading provisions of the act of May 10, 1917, of the principles to be applied in applications of this character and of the automobile stage situation between San Francisco and Palo Alto, reference is hereby made to the decision this day rendered in Application No. 3159—Santa Clara Valley Auto Line.

Petitioner proposes to operate an automobile stage line between the depot of the Southern Pacific Company in Redwood City, down Broadway to Main street, out Main street to the state highway, along the state highway to Camp Fremont, at Menlo Park, and, should traffic justify, out Santa Cruz avenue at Menlo Park.

The equipment proposed to be operated consists of two motor busses equipped with 30-horsepower Locomobile engines, each having a seating capacity of sixteen passengers. The license numbers of these machines issued by the State Motor Vehicle Department are Nos. 261169 and 306118.

No definite schedule has been arranged, but a schedule will be formulated and adhered to after experimental trips have shown the requirements of the traffic.

Petitioner proposes to charge five cents for transportation between any points within the city limits of Redwood City and ten cents from any point within Redwood City, on the proposed route, to any point outside of Redwood City.

As provided by section 3 of chapter 213, laws of 1917, petitioner has secured the necessary permits from the board of supervisors of San Mateo County and also from the board of trustees of Redwood City. Copies of these permits are attached to the petition herein.

Petitioner has heretofore conducted an automobile stage business in Redwood City and desires now to extend that business by transporting passengers between Redwood City and Camp Fremont. Petitioner presented testimony to show that a demand exists for additional automobile service between Redwood City and Camp Fremont. The presence of a large number of soldiers at Camp Fremont presents an unusual transportation situation, which particularly affects Palo Alto on the south and Redwood City on the north, to which points the soldiers desire to go in large numbers in the evening.

We find as a fact that public convenience and necessity require the operation by Redwood Transit Company of two motor busses as common carriers of passengers between Redwood City and Camp Fremont, at Menlo Park, and submit the following form of order:

#### ORDER.

Redwood Transit Company having filed herein a petition asking that the Railroad Commission make its order declaring that public convenience and necessity require the operation by petitioner of two motor

busses between Redwood City and Camp Fremont, a public hearing having been held, the matter having been submitted and being now ready for decision, the Railroad Commission finds as a fact that public convenience and necessity require the operation by Redwood Transit Company of two motor busses as common carriers of passengers between Redwood City and Camp Fremont, subject to the condition hereinafter specified.

Basing its order on the foregoing finding of fact and on the other findings contained in the opinion which precedes this order,

The Railroad Commission hereby declares that public convenience and necessity require the operation by Redwood Transit Company of two motor busses as common carriers of passengers between Redwood City and Camp Fremont; provided, that the rights and privileges herein granted shall not be transferred or assigned unless the Railroad Commission's written consent to such assignment or transfer shall first have been secured.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the state of California.

Dated at San Francisco, California, this twenty-sixth day of September, 1917.

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DECISION No. 4679.

IN THE MATTER OF THE APPLICATION OF FRANK J. BAWART AND ANTONE L. BAWART FOR AN ORDER DECLARING THAT PUBLIC CONVENIENCE AND NECESSITY REQUIRE THE OPERATION BY PETITIONERS OF TWO AUTOMOBILES AS COMMON CARRIERS OF PASSENGERS AND EXPRESS PACKAGES BETWEEN PALO ALTO AND REDWOOD CITY.

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Application No. 3164.

*Decided September 26, 1917.*

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Applicant granted a certificate permitting the operation of two auto busses between the cities of Palo Alto and Redwood City, provided it shall first secure all necessary franchises and permits from the public authorities of the districts through which it proposes to operate.

*E. A. Ingals*, for Petitioners.

*J. E. McCurdy*, for Peninsula Rapid Transit Company, Protestant.

*Bishop & Bahler*, by *H. M. Wade*, for California Stages Company, Protestant.

*O. M. Spangler*, for Union Line, Protestant.

*H. M. Wade*, for Otto Rinekert and Floyd Hanchett, Protestants.

THELEN and GORDON, *Commissioners*.

**OPINION.**

Frank J. Bawart and Antone L. Bawart, brothers, doing business under the name of University Auto Bus Company, have filed herein a petition asking that the Railroad Commission make its order declaring that public convenience and necessity require the operation by petitioners of two automobiles as common carriers of passengers and express packages between Palo Alto and Redwood City.

A public hearing was held in San Francisco on September 7, 1917.

For a statement of the provisions of chapter 213, laws of 1917, providing for the supervision and regulation of transportation companies, of the principles governing the decision in proceedings of this character and of the conditions surrounding transportation by automobile stages between San Francisco and Palo Alto, reference is hereby made to the decision this day rendered in Application No. 3159, Santa Clara Valley Auto Line.

Since July 23, 1917, petitioners have operated two automobiles as common carriers of passengers and express packages between Palo Alto and Redwood City. Petitioners operate on the state highway between these points. Their Redwood City terminus is at 238 Main street, Redwood City, and their Palo Alto terminus near the Southern Pacific Company's station, outside the incorporated limits of the city of Palo Alto.

The equipment used by petitioners consists of one Paige touring car, 1917 model, 29 horsepower, with a seating capacity of seven, state license number 191447, and one Ford touring car, 1918 model, 22 horsepower, with a seating capacity of five, state license number 310367.

The time schedule on which petitioners propose to operate is a daily schedule, leaving Palo Alto north bound at 11 a.m. and thereafter on the hour until 5 p.m., and again leaving Palo Alto north bound at 6 p.m. and thereafter each 30 minutes until midnight, and leaving Redwood City south bound at 11 a.m. and thereafter on the hour until 5 p.m., and again leaving Redwood City south bound at 6 p.m. and thereafter each 30 minutes until 11.30 p.m.

The fares proposed to be charged are as follows:

Between stations	One way fares		
	Palo Alto	Menlo	Redwood City
Palo Alto		\$ .10	\$ .15
Menlo	\$ .10		.10
Redwood City	.15	.10	

Children under two years free; from two to five years half fare on ten cent fares.

Hand baggage free up to and including weight of 25 pounds.

Packages and excess baggage will be carried at rate of one cent per pound; minimum charge 25 cents. No package or shipment weighing in excess of 100 pounds will be carried by passenger auto.

Due to the establishment of the United States Army encampment in San Mateo County, known as "Camp Fremont," an unusual local transportation situation has arisen between the city of Redwood City and the city of Palo Alto. Soldiers stationed at Camp Fremont are accorded frequent leave of absence and utilize such leave to make trips to near-by cities. Palo Alto and Redwood City are the nearest communities to the United States Army encampment at Camp Fremont and are the points to which a considerable number of soldiers desire transportation. Petitioners also desire to establish regular service between the city of Redwood City and the city of Palo Alto serving the encampment at Camp Fremont as an intermediate station.

Petitioners have not as yet secured a permit from the counties of Santa Clara and San Mateo and the city of Redwood City, as provided by section 3, chapter 213, laws of 1917, but intend to make application promptly for such permits.

As already stated, petitioners initiated their service on July 23, 1917, prior to the effective date of chapter 213, laws of 1917. Petitioners have operated their service on a regular time schedule and carry between 80 and 100 passengers daily.

We find as a fact that public convenience and necessity require the operation by petitioners of two automobiles as common carriers of passengers and express packages between Palo Alto and Redwood City, subject to the conditions contained in the order herein, and submit the following form of order:

#### ORDER.

Frank J. Bawart and Antone L. Bawart, brothers, doing business under the name of University Auto Bus Company, having filed a petition herein asking that the Railroad Commission make its order declaring that public convenience and necessity require the operation by petitioners of two automobiles as common carriers of passengers and express packages between Palo Alto and Redwood City, a public hearing having been held, the matter having been submitted and being now ready for decision, the Railroad Commission hereby finds as a fact that public convenience and necessity require the operation by Frank J. Bawart and Antone L. Bawart, doing business under the name of University Auto Bus Company, of two automobiles as common carriers of passengers and express packages between Palo Alto and Redwood City, on the conditions hereinafter specified.

Basing its order on the foregoing finding of fact and on the other findings of fact contained in the opinion which precedes this order,

The Railroad Commission hereby declares that public convenience and necessity require the operation by Frank J. Bawart and Antone L.

Bawart, doing business under the name of University Auto Bus Company, of two automobiles as common carriers of passengers and express packages between Palo Alto and Redwood City, provided that this declaration shall not become effective until said Frank J. Bawart and Antone L. Bawart, doing business under the name of University Auto Bus Company, shall have secured from the Railroad Commission a supplemental order reciting that they have filed herein certified copies of permits from the county of San Mateo, the county of Santa Clara and the city of Redwood City, as provided by section 3 of chapter 213, laws of 1917; and provided, further, that the rights and privileges herein granted shall not be assigned or transferred unless the written consent of the Railroad Commission to such assignment or transfer has first been secured.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the state of California.

Dated at San Francisco, California, this twenty-sixth day of September, 1917.

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DECISION No. 4680.

IN THE MATTER OF THE APPLICATION OF PENINSULAR RAILWAY COMPANY FOR AN ORDER DECLARING THAT PUBLIC CONVENIENCE AND NECESSITY REQUIRE THE OPERATION BY PETITIONER OF AN AUTOMOBILE STAGE SERVICE BETWEEN PALO ALTO AND CAMP FREMONT.

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Application No. 3177.

*Decided September 26, 1917.*

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Applicant granted a certificate permitting the operation of auto busses between the terminus of its electric railway at Palo Alto to Camp Fremont, provided that it first secure all necessary permits from the public authorities of the districts through which it proposes to operate.

*F. E. Chapin*, for Peninsular Railway Company.

*J. E. McCurdy*, for Peninsula Rapid Transit Company, Protestant.

*Bishop & Bahler*, by *H. M. Wade*, for California Stages Company, Protestant.

*C. M. Spangler*, for Union Line, Protestant.

*H. M. Wade*, for Otto Rinckert and Floyd Hanchett, Protestants.

THELEN and GORDON, *Commissioners*.

**OPINION.**

Peninsular Railway Company asks that the Railroad Commission make its order declaring that public convenience and necessity require

the operation by petitioner of an automobile stage service between Palo Alto and Camp Fremont.

A public hearing herein was held in San Francisco on September 7, 1917.

Petitioner proposes to operate an automobile stage service from its terminus at the Southern Pacific Company's depot in Palo Alto, along the state highway, to Camp Fremont and thence along Santa Cruz avenue to the present camp at Camp Fremont, opposite the "Oregon Headquarters."

The equipment which petitioner proposes to operate consists of three Fageol auto busses, each equipped with 40-horse power Case motors and traction equipment, and each having a seating capacity of 18 persons. The California State Motor Vehicle Department has issued license numbers 219602, 157171 and 253410, covering this equipment. If the requirements of the proposed service justify additional equipment, additional busses will be placed in the service.

Petitioner proposes to make connection with each car or train of its interurban electric railroad arriving at or departing from its terminus at the Southern Pacific Company's depot in Palo Alto.

The petition herein alleges that a fare of five cents each way will be charged by petitioner and that the rates for express packages will be the same as those charged by Wells Fargo & Company. At the hearing, petitioner asked leave to amend the petition so as to increase the fare to ten cents each way, due to the fact that the present camp at Camp Fremont is located on Santa Cruz avenue opposite the "Oregon Headquarters." Petitioner also announced its intention to publish a schedule of fares in connection with round-trip tickets issued by its interurban railroad line at a rate of ten cents per round trip, such amount to be added to the round trip rates on its interurban electric line now in effect.

Mr. F. E. Chapin, general manager of Peninsular Railway Company, testified that different commercial organizations and individuals in Santa Clara County had urged Peninsular Railway Company to extend its line of railroad from Palo Alto to Camp Fremont, so that persons desiring to travel between points on petitioner's line of railroad and Camp Fremont might do so directly. Due to some uncertainty with reference to the permanency of the army camp and to the expense of extending petitioner's line of railroad, Peninsular Railway Company prefers to extend its service to Camp Fremont through the instrumentality of motor busses. Leading merchants of San Jose and the city manager of San Jose, testified that it is the desire of the city of San Jose and of her people that petitioner be authorized to establish the desired automobile stage service, so as to improve the transportation facilities between San Jose and Camp Fremont.



The establishment of the army camp at Camp Fremont has resulted in an abnormal transportation situation, particularly in so far as affects near-by cities and towns, including particularly Palo Alto. The testimony shows the need for additional automobile stage service between Palo Alto and Camp Fremont.

For a statement of the provisions of chapter 213, laws of 1917, approved May 10, 1917, providing for the supervision and regulation of transportation companies, of the principles to be applied in passing on petitions of this character and of the automobile stage situation between San Francisco and Palo Alto, reference is hereby made to the decision this day rendered in Application No. 3159—Santa Clara Valley Auto Line.

Petitioner has not as yet secured from the county of Santa Clara and the county of San Mateo permits, as provided by section 3 of chapter 213, laws of 1917, but proposes to secure such permits before commencing operations.

We find as a fact that public convenience and necessity require the operation by Peninsular Railway Company of the proposed automobile stage service between Palo Alto and Camp Fremont, on the conditions set forth in the order herein and submit the following form of order:

#### ORDER.

Peninsular Railway Company having filed herein a petition asking that the Railroad Commission make its order declaring that public convenience and necessity require the operation by it of an automobile stage service between Palo Alto and Camp Fremont, a public hearing having been held, the matter having been submitted and being now ready for decision, the Railroad Commission hereby finds as a fact that public convenience and necessity require the operation by Peninsular Railway Company of an automobile stage service between Palo Alto and Camp Fremont, subject to the conditions herein set forth.

Basing its order on the foregoing finding of fact and on the other findings contained in the opinion which precedes this order,

The Railroad Commission hereby declares that public convenience and necessity require the operation by Peninsular Railway Company of an automobile stage service between Palo Alto and Camp Fremont; provided, that this declaration shall not become effective until Peninsular Railway Company has secured from the Railroad Commission a supplemental order reciting that Peninsular Railway Company has filed herein certified copies of permits from the counties of Santa Clara and San Mateo, in accordance with the provisions of section 3 of chapter 213, laws of 1917; and provided, further, that the rights and privileges hereby granted shall not be assigned or transferred unless the Railroad Commission's written consent to such assignment or transfer shall first have been secured.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the state of California.

Dated at San Francisco, California, this twenty-sixth day of September, 1917.

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DECISION No. 4681.

IN THE MATTER OF THE APPLICATION OF ESTELLA M. LAWRENCE AND EDWIN G. LAWRENCE FOR AN ORDER DECLARING THAT PUBLIC CONVENIENCE AND NECESSITY REQUIRE THE OPERATION BY PETITIONERS OF AN AUTOMOBILE STAGE SERVICE BETWEEN PALO ALTO AND SAN MATEO.

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Application No. 3181.

*Decided September 26, 1917.*

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Applicants granted a certificate permitting the operation of an auto bus between Palo Alto and San Mateo, provided all necessary permits are secured from public authorities of the district through which they propose to operate.

*Estella M. Lawrence*, for Applicants.

*J. E. McCurdy*, for Peninsula Rapid Transit Company, Protestant.

*Bishop & Bahler*, by *H. M. Wade*, for California Stages Company, Protestant.

*C. M. Spangler*, for Union Line, Protestant.

*H. M. Wade*, for Otto Rinekert and Floyd Hanchett, Protestants.

THELEN and GORDON, *Commissioners*.

**OPINION.**

Petitioners herein, husband and wife, ask that the Railroad Commission make its order declaring that public convenience and necessity require the operation by them of a five-passenger Ford touring car as a common carrier of passengers and express packages between Palo Alto and San Mateo.

A public hearing herein was held in San Francisco on September 21, 1917.

Petitioners have been engaged in this service subsequent to August 22, 1917. They operate a single five-passenger Ford touring car, state license No. 210394, along the state highway between Palo Alto, Menlo Park, Redwood City, San Carlos, Belmont and San Mateo, leaving Palo Alto at 7.50, 9.50 and 11.50 a.m. and 1.50, 3.50 and 5.50 p.m., and leaving San Mateo at 8.50 and 10.50 a.m. and at 12.50, 2.50, 4.50 and 6.50 p.m.

The fares which petitioners propose to charge are as follows:

Between Palo Alto and Menlo Park .....	10 cents
Between Palo Alto and Redwood City .....	15 cents
Between Palo Alto and San Mateo .....	30 cents
Between Menlo Park and Redwood City .....	10 cents
Between Menlo Park and San Mateo .....	25 cents
Between Redwood City and San Mateo .....	20 cents

Packages up to 50 pounds will be carried at the rate of one fare.

Hand baggage will be carried free.

Children under six years will be carried free.

Children from six to twelve years at half fare.

Mrs. Lawrence operates the car on week days, except the last trip daily. Mr. Lawrence operates the car on the last trip on week days, as well as Saturday afternoons and Sundays.

The terminus at Palo Alto is at the Southern Pacific Company's depot, just outside the corporate limits of Palo Alto, and the terminus at San Mateo is near the Southern Pacific Company's depot.

Petitioners stop on the state highway at Camp Fremont but do not run up into the camp.

Petitioners have not secured permits from the counties of San Mateo and Santa Clara and from the cities of Redwood City and San Mateo, as required by section 3 of the act of May 10, 1917. Petitioners intend to make such applications promptly. The order herein will not become effective until the Railroad Commission has made a supplemental order herein reciting that such permits have been secured.

For a statement of the leading provisions of the act of May 10, 1917, of the principles to be applied in applications of this character and of the automobile situation between San Francisco and Palo Alto, reference is hereby made to the decision this day rendered in Application No. 3159—Santa Clara Valley Auto Line.

Petitioners started operations in good faith prior to the effective date of the act of May 10, 1917. They are serving a public need and, in our judgment, should be permitted to continue to operate.

We find as a fact that public convenience and necessity require the operation by Estella M. Lawrence and Edwin G. Lawrence of an automobile operated as a common carrier of passengers and express packages between Palo Alto and San Mateo, on the conditions specified in the order.

We submit the following form of order:

#### ORDER.

Estella M. Lawrence and Edwin G. Lawrence having filed a petition asking that the Railroad Commission make its order declaring that public convenience and necessity require the operation by them of an automobile as a common carrier of passengers and express packages between Palo Alto and San Mateo, a public hearing having been held,

the matter having been submitted and being now ready for decision, the Railroad Commission hereby finds as a fact that public convenience and necessity require the operation by Estella M. Lawrence and Edwin G. Lawrence of an automobile as a common carrier of passengers and express packages between Palo Alto and San Mateo, on the conditions hereinafter specified.

Basing its order on the foregoing finding of fact and on the other findings of fact contained in the opinion which precedes this order,

The Railroad Commission hereby declares that public convenience and necessity require the operation by Estella M. Lawrence and Edwin G. Lawrence of an automobile as a common carrier of passengers and express packages between Palo Alto and San Mateo, provided that this declaration shall not become effective until said Estella M. Lawrence and Edwin G. Lawrence have secured from the Railroad Commission a supplemental order herein reciting that they have filed herein certified copies of permits from the county of San Mateo, the county of Santa Clara and from the city of Redwood City and the city of San Mateo permits as provided by section 3 of chapter 213, laws of 1917; and provided, further, that the rights and privileges herein granted shall not be assigned or transferred unless the written consent of the Railroad Commission to such assignment or transfer has first been secured.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the state of California.

Dated at San Francisco, California, this twenty-sixth day of September, 1917.

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DECISION No. 4682.

IN THE MATTER OF THE APPLICATION OF CITRUS BELT GAS  
COMPANY FOR AN INCREASE OF GAS RATES.

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Application No. 2787.

*Decided September 26, 1917.*

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Owing to the considerable increases in the price of oil, supplies and labor, it is found necessary to establish an increased schedule of rates for gas delivered in the cities of Redlands and Corona. Following schedules established to become effective for meter readings on and after October 15, 1917: Redlands: \$1.45 per M cubic feet for first 3,000, \$1.25 per M cubic feet for next 7,000, \$1.10 per M cubic feet for next 15,000, 90 cents per M cubic feet for all over 25,000. Monthly minimum 60 cents. Corona: \$1.75 per M first 2,000, \$1.50 per M next 8,000, \$1.25 per M for next 15,000, \$1.10 per M all over 25,000. Monthly minimum \$1.00. Discount of 10 cents per 1,000 cubic feet allowed if bills are paid within ten days of presentation.

*P. J. Dubbell and Z. T. Bell*, for Applicant.

*F. L. Leonard*, city attorney, for city of Redlands.

*M. O. Hert*, for city of Colton.

EDGERTON, *Commissioner*.

#### OPINION.

This is the application of Citrus Belt Gas Company for an increase of its rates for gas in the cities of San Bernardino, Redlands, Colton and Corona.

Applicant operates an artificial gas plant in San Bernardino serving that city and Colton, another in Redlands and a third in Corona. In the latter two cities applicant is the only gas company serving, while in San Bernardino and Colton it competes with Southern California Gas Company.

The company alleges in effect that its rates have not, in the past, returned it a fair rate upon its investment; that the cost of oil has materially increased and that an increase of rates is necessary to cover such increased oil cost to enable it to continue to earn at least the net return enjoyed in 1916. In this application Citrus Belt Gas Company requests authority to increase its rates for artificial gas sufficient only to reimburse it for the increased operating expenses caused by the advanced price of fuel oil used in manufacture of gas.

Owing to the competitive conditions existing in San Bernardino and the fact that there is pending before this commission an application by Southern California Gas Company (App. No. 1853) for a determination of rates in San Bernardino, hearing on which will be held in the near future, it appeared advisable to postpone hearing in this application in so far as it refers to rates in San Bernardino and Colton until the Southern California Gas Company's application is heard.

Hearings were held in the above-entitled matter at Redlands on August 31 and at Corona on September 1, at which time testimony and evidence were introduced relative to the rates for those cities respectively.

It appears advisable, under the conditions existing, that an order be issued in this matter relative to Redlands and Corona at the present time and a later decision to be issued relative to San Bernardino and Colton. I will, therefore, discuss the evidence as it affects the matter of rates in the cities of Redlands and Corona.

#### Redlands.

The existing rate charged by applicant in Redlands for gas of approximately 600 B. t. u. quality is:

Rate—\$1.20 per 1,000 cubic feet.

Minimum bill—50 cents per meter per month.

This rate was reviewed by the commission in 1914 and was determined at that time to be reasonable. The determination was made in connection with Case 604, *City of Redlands vs. Citrus Belt Gas Company*, Decision No. 1978 (Opinions and Orders of the Railroad Commission of California, Vol. 5, page 801).

Assistant Engineers L. S. Ready and W. J. Hammond of the commission's gas and electric department, submitted a report on the application setting forth the capital, revenue and expense, and the increase in costs resulting from advanced price of oil. No valuation was made, but the commission's previous findings as to value, plus additions and betterments, were used.

The financial showing for 1916 for the Redlands plant is set forth as follows:

Capital basis .....	\$285,000 00
Gros revenue .....	\$60,751 38
Operating expenses exclusive of depreciation.....	36,378 87
	<hr/>
	\$24,372 51
Net rate for interest and depreciation .....	8.54 per cent
Net rate for interest .....	6.34 per cent

The statistics for the year 1916 shows the following:

(a) Barrels of oil used.....	15,261 barrels
Total gas manufactured.....	67,158,500 cubic feet
Total gas sold .....	48,553,100 cubic feet
Quality of gas.....	608 B. t. u. per cubic feet
Average number of consumers .....	2,259
(b) Gas sold per consumer.....	21,500 cubic feet
Revenue per consumer .....	\$26.90
Revenue per 1,000 cubic feet sold.....	1.25

During the year 1916 the company paid 90.5 cents per barrel for oil delivered at Redlands. At the time application was filed the price paid was \$1.43 and at time of hearing applicant was paying \$1.63 per barrel delivered at Redlands. Mr. Z. T. Bell, general manager of applicant, testified that it was not possible to obtain a contract for oil at any fixed price but that the company was forced to pay market quotations.

The result of this present increase alone, based on 1916 operations, would be an increase in operating expenses of \$11,064.25 or 22.8 cents per 1,000 cubic feet sold. Assistant Engineer Ready reported that applicant should be able to economize in the use of oil, reducing the duty from 13.18 gallons per 1,000 cubic feet sold to at least 12 gallons. Even with this greater economy the gas delivered to its consumers will cost applicant 19.7 cents per 1,000 cubic feet more than in 1916. Advanced price of other material and of labor will tend to further increase the cost. If applicant is not granted relief its net revenue will be reduced from 6.34 per cent to approximately 3½ per cent on the investment.

There is little hope of a reduction in the price of oil in the near future and it is possible that further increases may occur. Applicant may be able to increase its sales by a proper form of rate owing to the increase in cost of other fuels. However, any increase of rates is, in general, accompanied by a loss of some business and under the present conditions it is hardly probable that applicant will more than keep its sales equal to those of 1916. Forced economies on the part of consumers due to general increase in cost of all supplies will further tend to decrease the sale of gas, especially at increased rates.

Applicant's business has not increased materially during the past four years. In fact, applicant had 2,275 consumers in 1913 and sold 47,626,000 cubic feet of gas as compared with 1916 report of 2,259 consumers and sales of 48,553,100 cubic feet. The population of Redlands was estimated to be 12,000 in 1916 as compared with 1913 estimate of 11,200.

Applicant requests only to increase its rates to offset the increased price of oil although cost of other materials and labor have increased.

Careful consideration must be given the public in increasing rates during this national crisis when the prices of all commodities have materially increased, in many cases far out of proportion to the increase in the public's earning power. A corporation must expect to not only economize in so far as possible but in many instances may have to forego a considerable part of its profits during this period. I believe, however, in this instance, considering the previous low return earned, that applicant is entitled to an increase in rates which will, as near as possible, offset the increased price of oil. Increased rates to cover advanced cost of oil will not, in my opinion, make it possible for applicant to net even its former return owing to probable reduction in sales and increase of other costs. However, I do not believe it advisable at this time to increase the rates further than herein set forth.

The average rate must be increased to \$1.437 per 1,000 cubic feet in order to reimburse applicant for the increased cost of oil and increased state taxes even with the reduced oil consumption.

A uniform rate of \$1.40 per 1,000 cubic feet was suggested by applicant at the hearing. This would net applicant approximately \$1.44 per 1,000 cubic feet sold but would tend materially to decrease sales and thus increase the cost per 1,000 cubic feet above that estimated. Applicant later, by letter, urged a higher rate. As discussed above, with the proper form of rate applicant will be able to more nearly continue its present sales and the following rate appears most advisable for the conditions existing in Redlands. This rate will result in an average return of \$1.426 per 1,000 cubic feet and will assist in increasing applicant's larger sales.

	<i>Rate.</i>	
First 3,000 cubic feet per month -----	\$1 45 per 1,000 cubic feet	
Next 7,000 cubic feet per month -----	1 25 per 1,000 cubic feet	
Next 15,000 cubic feet per month -----	1 10 per 1,000 cubic feet	
Over 25,000 cubic feet per month -----	90 per 1,000 cubic feet	
Minimum bill, 60 cents per meter per month.		

**Corona.**

The existing rate for gas at Corona is:

Rate—\$1.50 per 1,000 cubic feet.

Minimum bill—\$1.00 per meter per month.

The reasonableness of this rate was investigated by the commission in 1914 in Case No. 662, *City of Corona vs. Citrus Belt Gas Company*, and was found to be a reasonable rate in Decision No. 1979 (Opinions and Orders of the Railroad Commission of California, Vol. 5, page 808).

The financial statement for 1916 as reported by the commission's engineers was:

Capital -----	\$63,000 00
Gross revenue -----	14,306 05
Operating expenses -----	9,886 26
Net revenue -----	4,419 76
Rate of return for depreciation and interest -----	7 per cent
Rate of return for interest -----	4.8 per cent

*Statistics.*

(a) Oil used -----	3,307 barrels
Gas manufactured -----	10,784,000 cubic feet
Gas sold -----	9,257,100 cubic feet
Quality of gas sold -----	608 B. t. u.
Number of consumers -----	412
(b) Sales per consumer per year -----	22,400 cubic feet
Revenue per consumer -----	\$34.80
Average revenue per 1,000 cubic feet -----	1.549

The same increase has occurred in the price of oil at Corona as at Redlands, the cost in 1916 being 85½ cents per barrel and at time of hearing the price was \$1.58 per barrel delivered at Corona. On the basis of 1916 operations the increased price of oil would represent an increase in cost of gas of 25.9 cents per 1,000 cubic feet sold. To maintain the same net return this would be increased to 27.5 cents to cover additional taxes, making an average rate of \$1.824 per 1,000 cubic feet sold.

It was estimated that upon an oil duty of 13 gallons per 1,000 cubic feet sold, which appears reasonable considering the plant operations, the increased operating costs would be 20½ cents, making an average cost for the same net rate of return of \$1.751 per 1,000 cubic feet.

The question of rates in Corona presents a difficult problem. The rate at present is as high as is generally considered advisable. There appears no prospects of increasing the company's business and there is danger of material loss of business with an increase of rates to \$1.75 per 1,000



cubic feet. There appears no marked change in the number of consumers during the past two years and the evidence is to the effect that there is little prospect of additional sales to be obtained in the future. It was the opinion of the commission's engineers reporting on the matter that little benefit would be derived by applicant from an increase of rates equal to the increased cost. It is to be noted that at the existing rate applicant's net return will be reduced to approximately 2 per cent on the total investment.

Applicant urged that it be granted authority to put in a block schedule with a gross rate of \$1.75 for the first block with a 10 cent per 1,000 cubic feet discount for prompt payment, alleging that owing to increased cost of other fuels its sales would not be materially decreased and further that economies in collections would result from application of prompt payment discount rates.

In view of the conditions under which applicant is operating in Corona, and especially the small return to be obtained under the present rates, I believe applicant should be granted authority to put in such a discount rate, although there is some question as to its advisability.

I recommend, therefore, the following rate:

First 2,000 cubic feet per month -----	\$1 75 per 1,000 cubic feet
Next 8,000 cubic feet per month -----	1 50 per 1,000 cubic feet
Next 15,000 cubic feet per month -----	1 25 per 1,000 cubic feet
Over 25,000 cubic feet per month -----	1 10 per 1,000 cubic feet

Minimum bill—\$1.00 per meter per month.

Prompt payment discount—A discount of 10 cents on all bills of \$1.75 or less and 10 cents per 1,000 cubic feet for all bills in excess of \$1.75 will be made provided bills are paid within ten days of date of presentation.

The above rate will net applicant an average rate of \$1.622 per 1,000 cubic feet exclusive of forfeited discounts, which latter should increase the same to \$1.65. For the month of March there were no consumers using more than 10,000 cubic feet and any sales which applicant can encourage beyond that amount per month will be beneficial in increasing the net return.

I recommend the following form of order:

#### ORDER.

Citrus Belt Gas Company having applied to increase its gas rates and hearings having been held at Redlands and Corona relative to the rates in those cities and the matter being submitted and ready for decision, and the Railroad Commission finding as a fact that the existing rates under present conditions of cost of operation are unjust and unreasonable and that applicant should be granted authority to increase its rates to those set forth in this order,

*It is hereby ordered* that:

1. Citrus Belt Gas Company be and the same is hereby authorized to charge and collect the following rates for gas of 600 B. t. u. per cubic

foot average heat content in the city of Redlands. Such rates shall be applicable to all regular meter readings made on or after October 15, 1917, provided Citrus Belt Gas Company shall have filed with the commission said rates on or before October 10, 1917.

*Rate.*

First 3,000 cubic feet per meter per month	-----	\$1 45 per 1,000 cubic feet
Next 7,000 cubic feet per meter per month	-----	1 25 per 1,000 cubic feet
Next 15,000 cubic feet per meter per month	-----	1 10 per 1,000 cubic feet
Over 25,000 cubic feet per meter per month	-----	90 per 1,000 cubic feet
Minimum bill—60 cents per meter per month.		

2. Citrus Belt Gas Company be and the same is hereby authorized to charge and collect the following rates for gas of 600 B. t. u. per cubic foot average heat content in the city of Corona. Said rates shall be applicable to all regular meter readings made on or after October 15, 1917, provided Citrus Belt Gas Company shall have filed with the commission said rates on or before October 10, 1917.

*Rate.*

First 2,000 cubic feet per meter per month	-----	\$1 75 per 1,000 cubic feet
Next 8,000 cubic feet per meter per month	-----	1 50 per 1,000 cubic feet
Next 15,000 cubic feet per meter per month	-----	1 25 per 1,000 cubic feet
Over 25,000 cubic feet per meter per month	-----	1 10 per 1,000 cubic feet
Minimum bill—\$1.00 per meter per month.		

Prompt payment discount—A discount of 10 cents on all bills of \$1.75 or less and 10 cents per 1,000 cubic feet for all bills in excess of \$1.75 will be made provided bills are paid within ten days of date of presentation.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the state of California.

Dated at San Francisco, California, this twenty-sixth day of September, 1917.

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DECISION No. 4683.

VISALIA ELECTRIC RAILROAD COMPANY

*vs.*

MOUNT WHITNEY POWER AND ELECTRIC COMPANY.

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Case No. 1078.

*Decided September 29, 1917.*

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In establishing a rate for a particular consumer, such as a railroad company operated by electricity, it is found more equitable to base the demand charges on the greatest average hourly demand rather than the greatest average fifteen-minute demand as applicable to other classes of consumers. It is held, however, that in establishing a logical basis for power rates that the demand factor as well as the amount of energy supplied must be taken into account.

Defendant required to amend its Schedule No. 10 so as to provide that as to service to an electric railroad the demand charges shall be based on maximum average hourly demand for each month during which service is rendered instead of over fifteen-minute intervals as heretofore. The above adjustment to be made applicable to service rendered complainant since May, 1916.

*Power & McFadden*, for Complainant.

*Farnsworth & McClure*, for Defendant.

THELEN, *Commissioner*.

#### OPINION.

The rate to be paid for electric energy by the Visalia Electric Railroad Company, hereinafter referred to as the railroad company, to the Mount Whitney Power and Electric Company, hereinafter referred to as the power company, is the issue in this proceeding.

The complaint herein alleges in effect that the railroad company is engaged in the business of common carrier of passengers and freight in Tulare County; that the railroad company purchases electric energy from the power company solely for the purposes of its railroad business; that the application of a certain rate schedule entitled "Schedule No. 10" as established by this commission in its Decision No. 3278, effective May 1, 1916, has resulted in a material increase in the charges made by the power company to the railroad company for electric energy as compared with the charges which the railroad company would have been required to pay for said service in accordance with the provisions of the contract which was in existence between the parties prior to the effective date of said Decision No. 3278; that since May 1, 1916, payments have been made to the power company just as though the old contract were still in effect and the amounts claimed by the power company in accordance with the said Schedule No. 10 which are in excess of the former contract have been deposited with the Railroad Commission; that as a public carrier the railroad company is not permitted to charge rates in excess of those authorized by law; that on account of the nature of the railroad company's business it is compelled to use on occasions and for very short periods, amounts of electric energy largely in excess of the average amount required under ordinary circumstances, as, for example, during the movement of crowds of passengers on public holidays, and at times of extraordinarily large shipments of freight which are thrown upon the railroad company by connecting roads, and which require immediate movement; that on account of the diversity between the railroad company loads and the demands of other consumers of the power company it is not necessary for the power company to maintain any excess capacity on account of the abnormal peaks created by the railroad company; that the railroad company's business and the income derived therefrom do not and will not justify the payment by it of the rates prescribed in said Schedule No. 10; that said

rates are unfair and discriminatory inasmuch as they are applicable to the railroad company which is not able to control at all times its peak capacity and are equally applicable to other industrial power users who are able to so control their peaks; that the railroad company has a large investment in its properties upon which it will be unable to pay a fair return if required to purchase its electric energy at said rates. The railroad company asks that the commission find that the rates provided under said Schedule No. 10 are unjust, unreasonable and excessive as applied to its business and that the commission establish as a just and reasonable rate some other and lesser rate, and further asks that the railroad company's service be included under some different classification than that described in this schedule.

The answer calls attention to the outstanding account of the railroad company and denies that all of the charges claimed by the power company in excess of the old contract rate have been deposited with the Railroad Commission, and sets forth a statement of this account which indicates that during the period from May 1, 1916, to May 21, 1917, the amounts paid by the railroad company to the power company aggregated \$10,889.63 and that the total amount claimed for the same period by the power company in accordance with Schedule No. 10 is \$19,272.95, and that the railroad company has deposited with the Railroad Commission only \$2,522.32 in accordance with Rule 6 of Decision No. 2879 of the commission (Vol. 8, Opinions and Orders of the Railroad Commission of California, p. 372), leaving a balance due of \$5,861.00. The answer further denies that the power company does not have to maintain any excess capacity on account of the railroad company's peak demands, and alleges that the railroad company's greatest demand does frequently occur at the same time as the power company's maximum peak load, and that it did so occur at one or more times during each of the months of October, November and December, 1916, and January, February and April, 1917. The power company does not deny the existence of some diversity between the railroad company's peaks and those of its other consumers but alleges that such diversity as exists was taken into account by the commission in establishing Schedule No. 10. The power company further alleges that many other factors affect the business and earnings of the railroad company so that the cost of electric energy is but slightly significant in relation thereto. The power company denies that the rates provided in said Schedule No. 10 are unjust and unreasonable as applied to the business of the railroad company and asks that the railroad company's prayer be denied, and that it be ordered to pay the balance of \$5,861.00 still due to the power company for service rendered prior to May 21, 1917, and further asks that the \$2,522.32 on deposit with the Railroad Commission be paid to the power company.

A public hearing was held in San Francisco on September 4, 1917, at which time the matter was submitted for decision.

This complaint was taken up informally by the railroad company prior to the filing of its formal complaint and it was stipulated at the hearing that data contained in the commission's informal file No. 024-175 relative thereto as well as any other pertinent data now on file with the commission, might be considered as evidence herein.

It appears that the railroad company receives electric energy directly from the high tension transmission lines of the power company at a certain point in Exeter, Tulare County, and transmits said energy over a short line of its own to its substation in that city, where the power company's meters are located and where the energy is transformed for delivery to the railroad company's trolley and for distribution by it to its various substations along its line of track.

Prior to the issuance of its decision in what is commonly known as the "Mount Whitney Rate Case" (Vol. 9, Opinions and Orders of the Railroad Commission of California, p. 628), the commission made a thorough investigation of the investment, earnings, expenses and operating statistics of the power company. The railroad company made no appearance at the public hearings which were held at Tulare and elsewhere in connection with said rate case, nor did it in any way draw the commission's attention to the alleged special conditions which affect it as a consumer of energy from the power company's system.

Since the railroad company receives its energy directly from the power company's high tension transmission lines, it falls naturally into the classification which the commission designated as "Transmission Service," the rate provided therefor being as follows:

**SCHEDULE No. 10.**

*Transmission Service Rate.*

**METERED SERVICE.**

Applicable to large consumers receiving energy directly from the company's transmission lines at the transmission line voltage.

\$2.50 per month per kilowatt of measured maximum demand, to which charge shall be added an energy charge of two-tenths (2 mills) cent per kilowatt hour for all electric energy supplied.

The portion of this rate which depends upon the maximum demand is based upon the average maximum demand over a period of fifteen minutes during each and every month in which service is furnished by the power company. The evidence submitted in the matter herein includes printometer records which indicate the railroad company's load for each fifteen-minute period from August 1, 1916, at which time the meter was first installed, to August 31, 1917, with the exception of several periods of short duration when the meter was out of order, and of the

month of March, 1917, when the printometer record was lost in the mails.

A careful analysis of these records establishes the fact that the railroad company's daily peak frequently does occur at the same time as the power company's daily maximum load and that on the days when this is not the case the effect is practically the same inasmuch as the daily load curve of the power company is very flat, so that to all intents and purposes it may be said that the power company's peak is practically continuous throughout the day.

It is also true that the highest peaks of the railroad company occur in the winter months between October and January at a time when the power company's seasonal load is the lightest. The demands created by the railroad company during the summer months, however, are of material proportions not incommensurate with the diversity which was taken into account by the commission in fixing this rate in the aforesaid Mount Whitney Rate Case.

One significant feature of the railroad company's load, however, which should be noted at this time is that the peaks are in general of but very short duration so that the temporary overload capacity of the power company's generating and transmission equipment should be able to carry that portion of the railroad company's load which is above the average for a somewhat longer time than the fifteen-minute period as provided in the present rate. It is possible, therefore, that as applied to such a load as this of the railroad company, it would be more equitable to base the demand charges on the greatest average hourly demand rather than the greatest average fifteen-minute demand. As the commission pointed out in deciding the matter of a similar complaint of the *Fresno Traction Company vs. San Joaquin Light and Power Corporation*, Case No. 1038, Decision No. 4272, decided April 26, 1917, it is very difficult to determine the criteria for establishing a proper interval over which the demand of a consumer should be integrated on account of the very important but uncertain relation of the overload capacity of generators and transformers to the effect of intermittent, varying and constant loads. It is obvious, however, that a logical basis for power rates must take into account the demand factor as well as the amount of energy supplied.

Table No. I herein shows a comparison between the greatest average fifteen-minute demand and the greatest average hourly demand for each month for the period from May, 1916, to August, 1917, inclusive, together with the kilowatt hour consumption and the charges on each basis computed in accordance with Schedule No. 10.

TABLE I.

*Comparison of Demands and Costs on Basis of Hourly and Fifteen-Minute Periods.*

Month	Average 15-minute peak	Average hourly peak	Demand charge on 15-minute basis	Demand charge on hourly basis	Kilowatt hours consump- tion	Energy cost at 2 mills per kilowatt hour
1916—May -----	*440.14 k.w.	*315.38 k.w.	\$1.100 35	\$788 45	96,910	\$193 82
June -----	*440.14 k.w.	*315.38 k.w.	1,100 35	788 45	110,210	220 42
July -----	*440.11 k.w.	*315.38 k.w.	1,100 35	788 45	111,400	222 80
August -----	544 k.w.	410 k.w.	1,360 00	1,025 00	109,620	219 24
September -----	424 k.w.	316 k.w.	1,060 00	865 00	107,580	215 16
October -----	672 k.w.	472 k.w.	1,680 00	1,180 00	113,570	227 34
November -----	672 k.w.	488 k.w.	1,680 00	1,220 00	123,740	247 48
December -----	720 k.w.	496 k.w.	1,800 00	1,240 00	140,960	281 92
1917—January -----	696 k.w.	482 k.w.	1,740 00	1,205 00	116,260	232 52
February -----	632 k.w.	472 k.w.	1,580 00	1,180 00	110,000	200 00
March -----	416 k.w.	298 k.w.	1,040 00	745 00	98,830	197 66
April -----	568 k.w.	400 k.w.	1,420 00	1,000 00	96,780	193 56
May -----	480 k.w.	368 k.w.	1,200 00	920 00	96,470	192 94
June -----	456 k.w.	362 k.w.	1,140 00	905 00	97,920	195 84
July -----	400 k.w.	200 k.w.	1,000 00	500 00	98,480	196 96
August -----	432 k.w.	302 k.w.	1,080 00	755 00	82,660	165 32

\*Estimated on account no meter in service.

†Printometer record lost in mails, hourly demand estimated on basis of demand used by Mount Whitney company for billing.

These statistics indicate that the average effect throughout this entire period of a change from the fifteen-minute to the hourly basis would result in a reduction of the demand charges of about 28 per cent and the cost of power to the railroad company would then average 1.08 cents per kilowatt hour.

The contract which was in effect between the parties hereto prior to May, 1916, provided for a rate of .9 cent per kilowatt hour for the first 100,000 kilowatt hours used per month; .8 cent per kilowatt hour for the next 100,000 kilowatt hours used per month and .765 cent per kilowatt hour for all over 200,000 kilowatt hours used per month. The minimum charge was \$1.00 per month per kilowatt of installed capacity, and in no event was to be less than \$900.00 per month.

Table No. II shows a comparative statement of the charges under the old contract and under Schedule No. 10, computed both on the basis of a fifteen-minute demand and a one-hour demand period for each month from May, 1916, to May, 1917, inclusive.

TABLE II.

*Comparison of Charges Under Schedule Ten and Under Former Contract.*

Month	Demand charge, hourly basis	Demand charge, 15-minute basis	Energy charge	Total charge, hourly basis	Total charge, 15-minute basis	Total charge as per former contract
1916—May -----	\$788 45	\$1,100 35	\$193 82	\$982 27	\$1,294 17	\$900 00
June -----	788 45	1,100 35	220 12	1,008 87	1,320 77	981 68
July -----	788 45	1,100 35	222 80	1,011 25	1,323 15	991 20
August -----	1,025 00	1,360 00	219 21	1,244 24	1,579 24	976 96
September -----	865 00	1,060 00	215 16	1,080 16	1,275 16	960 64
October -----	1,180 00	1,680 00	227 34	1,407 34	1,907 34	1,009 36
November -----	1,220 00	1,680 00	247 48	1,467 48	1,927 48	1,089 92
December -----	1,240 00	1,800 00	281 92	1,521 92	2,081 92	1,227 68
1917—January -----	1,205 00	1,740 00	232 52	1,437 52	1,972 52	1,030 08
February -----	1,180 00	1,580 00	220 00	1,400 00	1,800 00	980 00
March -----	745 00	1,040 00	197 66	912 66	1,237 66	900 00
April -----	1,000 00	1,120 00	193 56	1,193 56	1,613 56	900 00
May -----	920 00	1,200 00	192 94	1,112 94	1,392 94	900 00
June -----	905 00	1,110 00	195 84	1,100 84	1,335 84	900 00
July -----	500 00	1,000 00	196 96	696 96	1,196 96	900 00
August -----	755 00	1,080 00	165 32	920 32	1,245 32	900 00
Totals -----	\$15,105 35	\$21,081 05	\$3,422 98	\$18,528 33	\$21,504 03	\$15,517 52
Average per k.w.h. -----				\$0.01082	\$0.01431	\$0.00908

No evidence was introduced to substantiate the railroad company's claim that their business would not warrant an increase in their power rates.

The allegation of the railroad company that the transmission rate as applied to its business is discriminatory because it is unable to control its peaks while others enjoying this rate are not so handicapped, need not be considered at the present time inasmuch as the railroad company is the only consumer being served under this schedule.

After a careful analysis of all of the evidence submitted herein I find that the fifteen-minute demand period should be extended to a period of one hour.

It was stipulated that the decision herein should apply to all power delivered since May, 1916.

I therefore recommend that the railroad company's account with the power company be adjusted on the basis of the hourly demands as set forth in Table No. I, applying the rates as provided in the aforesaid Schedule No. 10, and that on this basis the commission dispose of the money heretofore deposited with it in accordance with Rule 6, Decision 2879, in connection with the complaint herein.

I recommend the following form of order:

#### ORDER.

The above-entitled proceeding having been submitted and being ready for decision, and the commission finding that Schedule No. 10, "Transmission Service Rate," as established in its Decision No. 3278, will be



a just and reasonable rate for the Mount Whitney Power and Electric Company to charge for electric energy delivered to the Visalia Electric Railroad Company, provided the demand charge thereof be based on the greatest average hourly demand per month rather than the greatest average fifteen-minute demand, and the commission finding further that the hourly peaks shown in Table No. I in the opinion preceding this order, are the correct demands upon which to base said charges for the period from May, 1916, to August, 1917, inclusive, and basing its order on the above finding of fact and the findings of fact as set forth in the opinion preceding this order,

*It is hereby ordered that,*

(1) The account of the Visalia Electric Railroad Company with the Mount Whitney Power and Electric Company shall be adjusted in accordance with the demand and energy charges provided in Schedule No. 10, Decision No. 3278, of the Railroad Commission of the state of California, as applied to the hourly demands indicated in the aforesaid Table No. I in the opinion preceding this order, and the actual consumption in kilowatt hours.

(2) Within ten days from the date of this order Mount Whitney Power and Electric Company shall refile with the Railroad Commission said Schedule No. 10 so as to provide that when applied to service rendered to an electric railway the demand charges shall be based upon the maximum average hourly demand for each and every month during which the service is rendered.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the state of California.

Dated at San Francisco, California, this twenty-ninth day of September, 1917.

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DECISION No. 4684.

IN THE MATTER OF THE APPLICATION OF THE ASSOCIATED WATER COMPANY FOR AN ORDER AUTHORIZING ISSUANCE OF STOCK.

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Application No. 3125.

*Decided September 29, 1917.*

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Applicant authorized to issue 245 shares of its capital stock of the par value of \$100.00 per share, such stock to be issued to Associated Oil Company in lieu of a like amount of stock heretofore issued to the oil company without authorization in exchange for its water properties.

*Edmund Tauszky*, for applicant.

BY THE COMMISSION.

**OPINION.**

Associated Water Company asks authority to issue 245 shares of its capital stock of the par value of \$24,500.00 in lieu of an equal amount of stock issued to Associated Oil Company March 11, 1913, without authority of the commission.

A public hearing in the matter was held by Examiner Westover at San Francisco.

Associated Oil Company in 1902 purchased from California Standard Oil Company the latter's water plant and system by which it pumped and distributed water in the oil fields near McKittrick, Kern County, for the total sum of \$55,719.00, payable in stock and bonds of the oil company at par, and in substantially equal parts. The oil company during its ownership of the water plant and system spent about \$18,000.00 on it in extensions and improvements and operated it privately in connection with its own oil operations until March, 1913. It never sold water to the public. At that time other oil operators in the vicinity applied for water service and the oil company, not wishing to engage in a public utility water business, caused the Associated Water Company to be incorporated in March, 1913, with an authorized capital stock of \$25,000.00, divided into 250 shares of the par value of \$100.00 each, five of which were subscribed and paid for in cash by the directors. The water plant and system was thereupon conveyed to the new water company upon a valuation of \$25,000.00 based upon an appraisal by the oil company's engineer. The consideration paid for the plant and system was \$500.00 cash and \$24,500.00 in the water company's stock at par. The stock was issued to Associated Oil Company March 11, 1913, by whom it has ever since been held. Through oversight, and not with intent to evade the law, the stock was issued without authority of the commission.

A detailed appraisal of the property was submitted at the hearing, and checked by Mr. C. H. Loveland, one of the commission's assistant hydraulic engineers. Its estimated cost of the property was somewhat higher than the appraised value at which the property was taken over in March, 1913. The commission has made no independent appraisal or investigation of the property.

**ORDER.**

Associated Water Company having applied to the Railroad Commission for authority to issue the stock hereinafter authorized, and a public hearing having been held upon said application, and the commission being of the opinion that the property heretofore procured by a former unauthorized issue of stock was reasonably required for the purposes specified herein, which purposes are not in whole or in part reasonably chargeable to operating expenses or to income,

*It is hereby ordered* that Associated Water Company be and it is hereby authorized to issue 245 shares of its capital stock of the par value of \$100.00 each in lieu of and upon the surrender and cancellation of certificates for an equal number of shares of its stock heretofore issued without the authority of the commission; it appearing that such stock previously issued without authority was issued for the purpose of procuring a water plant and system to enable applicant to engage in its present business.

This order is made upon the following conditions:

1. The authority hereby granted shall apply only to such stock as shall have been issued within thirty days from date hereof.

2. Within ten days after said stock is issued applicant shall make verified report to the commission in writing stating the fact and date of issue of the stock herein authorized and the fact and date of surrender and cancellation of certificates heretofore issued, described in each instance as required by General Order No. 24, which order in so far as applicable is made part hereof.

Dated at San Francisco, California, this twenty-ninth day of September, 1917.

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DECISION No. 4685.

IN THE MATTER OF THE APPLICATION OF CALIFORNIA-OREGON POWER COMPANY FOR AN ORDER AUTHORIZING THE SALE OF CALIFORNIA-OREGON POWER COMPANY AND THE PURCHASE BY ESTABROOK GOLD DREDGING COMPANY OF A POWER PLANT IN TRINITY COUNTY AND FOR AN ORDER AUTHORIZING A LEASE TO BE ENTERED INTO BETWEEN THE SAME PARTIES FOR SAID POWER PLANT.

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Application No. 3016.

*Decided September 29, 1917.*

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The Railroad Commission refuses to grant an application in which a power company asks permission to sell a certain generating plant to a gold dredging company. lease said plant for a period of ten years, and in consideration for such lease furnish the dredging company power at rates lower than that accorded other consumers of a like nature, it being held that such transaction merely constituted an advancement by the dredging company to the power company in consideration of which the dredging company would secure a preferential rate which would effect an evasion of the law prohibiting discrimination. Application dismissed.

*Morrison, Dunne & Brobeck, by J. F. Shuman and E. S. Taylor, for Applicant.*

*Wm. E. Colby, for Estabrook Gold Dredging Company.*

BY THE COMMISSION.

**OPINION.**

In this application California-Oregon Power Company requests authority (1) to sell to Estabrook Gold Dredging Company for the sum of \$23,300.00 a certain hydroelectric plant formerly owned by Trinity Gold Mining and Reduction Company, and (2) to lease (from Estabrook Gold Dredging Company) said plant for a period of ten years.

Hearing in this matter was held before Examiner Encell at San Francisco on August 11, 1917.

The property proposed to be sold and thereafter leased by California-Oregon Power Company consists of a 320-kilowatt hydroelectric plant purchased from the Trinity Gold Mining and Reduction Company and located near Carrville, Trinity County. This plant was purchased from the former owners by California-Oregon Power Company for \$22,500.00 under authority of this commission. (See Decisions 4092 and 4131 in Application No. 2731.)

California-Oregon Power Company plans, under a certain agreement, to sell the power plant to Estabrook Company for \$23,300.00. By a separate agreement California-Oregon Power Company is to lease the power plant from Estabrook Company for a period of ten years or more, depending upon operations, and in consideration supply power to said company during that period at 6.3 mills per kilowatt hour, which rate is 1.2 mills per kilowatt hour less than the rate for such service charged other consumers in that territory. It is agreed that the California-Oregon Power Company shall purchase the plant from the Estabrook Company at the original price of \$23,300.00 at the termination of the agreement.

It is difficult to see any reason for the complicated agreements to sell and then lease a certain hydroelectric plant and in consideration therefor grant a reduced rate for electric energy served to the lessor of the plants. What appears to be actually proposed is that Estabrook Company is to loan to California-Oregon Power Company for a period of ten years \$23,300.00 receiving as security therefor a deed to a certain plant and, as interest upon the loan, a rebate of 1.2 mills per kilowatt hour on all energy used by it in the operation of its dredges. It is estimated that the interest thus obtained will amount to approximately 8 to 10 per cent per annum, depending upon the length of time the dredging operations are continued.

We can see no necessity for the two agreements proposed, which in effect are intended to grant Estabrook Company a rate of 1.2 mills per kilowatt hour less than the standard rate for electric energy served in that district. It is true that Estabrook Company is advancing \$23,300.00

to the power company, but other mining corporations in the district are also required by applicant to advance certain amounts for the construction of lines to serve them. The purchase or construction of power plant equipment should have no bearing upon the rate to be charged.

This plant is apparently used and useful in the service of California-Oregon Power Company and should remain its property, and the only apparent reason for requiring this consumer to provide a necessary part of the production system is to create a condition which could not readily be duplicated by other consumers of the same class. For the commission to permit such a transaction as that proposed in this application would be to open wide the door to discriminatory practices and to countenance an evasion of the clear intent of the law prohibiting discrimination. The maintenance of uniform rates by public utilities is necessary not only for the protection of the consumer, but for the ultimate welfare of the utility as well, and while it may so happen that, in order to supply a certain consumer, the serving utility would be justified in requiring an advance payment or guarantee, such a condition can not, in itself, warrant the granting of special or preferential rates.

After careful consideration, we are of the opinion that the proposed agreements should not be approved.

**ORDER.**

California-Oregon Power Company having applied to this commission for authority to sell a certain hydroelectric plant to Estabrook Gold Dredging Company and to lease said plant from that company, and a hearing having been held and the matter being submitted and ready for decision, and it appearing that the application should be denied,

*It is hereby ordered* that the above-entitled application be and the same is hereby dismissed.

Dated at San Francisco, California, this twenty-ninth day of September, 1917.

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DECISION No. 4686.

IN THE MATTER OF THE APPLICATION OF FRANCIS LAND AND  
WATER COMPANY FOR AUTHORITY TO ISSUE NOTE.

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Application No. 2891.

*Decided September 29, 1917.*

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*Blanche R. Shaw, for Applicant.*

BY THE COMMISSION.

**OPINION.**

This is an application of the Francis Land and Water Company to renew a certain promissory note in favor of Clara F. Brice in the sum of \$2,000.00.

At the hearing it developed that applicant had the money on hand with which to discharge this obligation, but was not certain as to whether or not the consent of the Railroad Commission was required. Upon being advised that no such consent of this board was required, applicant proceeded to pay the obligation which was the basis of the application herein. Wherefore, the permission sought herein is no longer necessary.

**ORDER.**

Application having been made by Francis Land and Water Company, a corporation, for authority to renew promissory note dated January 15, 1916, in the sum of \$2,000.00, payable to Clara F. Brice, a public hearing having been held thereon and the matter now being ready for decision, for the reasons contained in the foregoing opinion,

*It is hereby ordered* that said application be and the same is hereby denied.

Dated at San Francisco, California, this twenty-ninth day of September, 1917.

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DECISION No. 4687.

W. C. LAWRENCE AND MRS. W. C. LAWRENCE

*vs.*

H. HELLMAN.

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Case No. 1106.

*Decided September 29, 1917.*

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An automobile operated for hire which does not run between any fixed termini nor upon a regular schedule is not a common carrier as defined by section 1c, chapter 213, Statutes of 1917, and is not required to file its rates and schedules with the commission. Complainant's petition that the commission compel defendant to comply with the provisions of the above-named chapter dismissed.

*W. C. Lawrence, in propria persona.*

*H. B. Wolfe, for Defendant.*

BY THE COMMISSION.

**OPINION.**

This is a complaint by W. C. Lawrence and Mrs. W. C. Lawrence, proprietors of Lawrence Stage Company, and alleges that H. Hellman

is regularly operating a stage line between Keddie, Plumas County, and Westwood, Lassen County, in competition with Lawrence Stage Company and without having filed schedules and rates of fare as required by the statutes of the state of California and the regulations of this commission.

Defendant filed answer denying the material allegations of the complaint and alleging that the character of the business in which he was engaged did not place his operations under the jurisdiction of this commission.

A public hearing was held at Greenville before Examiner H. A. Encell on September 5, 1917. The matter was duly submitted and is now ready for decision.

The complainants in this proceeding are the proprietors of the Lawrence Stage Company and operate an automobile stage service between Keddie in Plumas County through Indian Valley to Crescent Mills, Greenville, Nevis, Prattville, Westwood and Susanville in Lassen County. Schedule covering rates of fare and time-tables are regularly filed with this commission.

It appears that the defendant was employed as a driver for the Lawrence Stage Company and that since his employment ceased has purchased an automobile and has operated same between Keddie and Westwood and between Greenville and Westwood and other points and has requested the aid of residents in securing passengers to be transported by his automobile. In one instance three passengers were taken from the Lawrence Stage Company at Westwood, it being alleged that they had previously made arrangements for transportation on the Lawrence stages. The Lawrence Stage Company, operating a regular service with ample equipment and under the provisions of tariffs and time schedules filed with this commission, object to unauthorized competition by irregular operators and point out the fact that regular service is always maintained even under the unfavorable conditions prevailing in the winter months.

Defendant in this proceeding testified that he purchased his automobile and engaged in a "for rent" service in the month of June, 1917, that he made trips anywhere and at any time and for any agreed rate. That his automobile was equipped with a sign reading "For Hire" and that it was not his intention to interfere with the business of any established stage line but to conduct a rent service and carry passengers to any agreed destination at such times as his services might be engaged, and for such compensation as might be agreed upon in each particular transaction. Further testified that the three passengers alleged to have been taken from the complainants' auto stage at Westwood were des-

tined to Engels Mine, a point not reached by the regular advertised stages of the Lawrence Stage Company.

Section one, paragraph "c" of chapter two hundred thirteen of the statutes of the state of California, as approved May 10, 1917, defines a transportation company in the following language:

"(c) The term 'transportation company,' when used in this act, means every corporation or person, their lessees, trustees, receivers or trustees appointed by any court whatsoever, owning, controlling, operating or managing any automobile, jitney bus, auto truck, stage or auto stage used in the transportation of persons or property as a common carrier for compensation over any public highway in this state between fixed termini or over a regular route and not operating exclusively within the limits of an incorporated city or town or of a city and county; *provided*, that the term 'transportation company,' as used in this act, shall not include corporations or persons, their lessees, trustees, receivers or trustees appointed by any court whatsoever, in so far as they own, control, operate or manage taxicabs, hotel busses or sight-seeing busses, or any other carrier which does not come within the term 'transportation company,' as herein defined."

Paragraph "c" of section one of the above-entitled act specifies the interpretation that shall be placed upon the words "between fixed termini or over a regular route," and specifies the jurisdiction of this commission over questions of fact to be determined in case a question arises as to any automobile, jitney bus, auto truck, stage or auto stage operating "between fixed termini or over a regular route."

After careful consideration of the evidence in this case we are of the opinion and find as a fact that the operation of the defendant has not been conducted between fixed termini or over a regular route and is therefore not that of a transportation company as defined in section one of chapter two hundred thirteen of the statutes of the state of California as approved May 10, 1917. Wherefore, the commission is without jurisdiction in the premises and the complaint should be dismissed.

#### ORDER.

A public hearing having been held in the above-entitled proceeding, the matter having been duly submitted and the commission basing its order on the finding of fact as set forth in the foregoing opinion,

*It is hereby ordered* that this complaint be and the same hereby is dismissed.

Dated at San Francisco, California, this twenty-ninth day of September, 1917.



## DECISION No. 4688.

IN THE MATTER OF THE APPLICATION OF GEORGE DAVIS FOR  
CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY TO  
OPERATE STAGE OR TRUCK SERVICE BETWEEN VALLEJO AND  
NAPA.

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Application No. 3148.

*Decided September 29, 1917.*

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Applicant failing to show that there is any public necessity for the establishment of auto bus service between the cities of Vallejo and Napa, and it appearing that the traveling public is adequately served by the steam and electric roads operating between the above-named points, petition for certificate authorizing the establishment of such service, dismissed.

*Geo. Davis, in propria persona.*

*Wallace Rutherford, city attorney, for city of Napa.*

*John T. York, for San Francisco, Napa and Calistoga Railway, Pro-  
testant.*

BY THE COMMISSION.

## OPINION.

This is an application on behalf of George Davis for a certificate of public convenience and necessity under the provisions of section five of chapter two hundred thirteen of the statutes of the state of California, as approved May 10, 1917.

A public hearing was held at Vallejo on September 13, 1917, before Examiner H. A. Encell. The matter was duly submitted and is now ready for decision.

The applicant desires to establish a passenger auto stage service between the city of Vallejo in Solano County and the city of Napa in Napa County, on a schedule of three round trips daily. The equipment proposed to be used consists of one Buick automobile, Model "D," seven passenger, 55 horsepower, licensed by the State Motor Vehicle Department under License No. 298828.

Applicant relies upon the alleged fact that the trips by train between Napa and Vallejo are not sufficiently frequent to properly accommodate the traveling public. Applicant has operated over the proposed route for a period of four days during the month of August and handled a total of 21 passengers, an average of but five and one-quarter per day and one and three-tenths passengers per round trip. No evidence other than that of the applicant was presented regarding the public necessity and convenience to be served by the establishment of the proposed auto stage service.

Witnesses representing the Vallejo Chamber of Commerce and the business community of Napa, testified that the traveling public were

satisfactorily served by the ten round trips daily over the electric inter-urban line of the San Francisco, Napa and Calistoga Railway and four round trips daily over the line of the Southern Pacific Company, and that in their opinion no public demand existed for the additional service proposed to be established. A resolution was filed by the Napa Chamber of Commerce outlining the opinion of that organization as to the present service rendered by the steam and electric railroads being satisfactory and adequate for the public necessity and convenience.

The applicant has not secured any permits from the board of trustees of the city of Napa, the board of trustees of the city of Vallejo, the board of supervisors of the county of Napa and the board of supervisors of the county of Solano, as required by section 3, of chapter 213, of the 1917 statutes of the state of California.

After careful consideration of the evidence in this proceeding, we are of the opinion and find as a fact that public necessity and convenience do not require the establishment of the proposed auto stage line between Vallejo and Napa, for the reason that the public are at present adequately served by the existing transportation lines of the Southern Pacific Company and the San Francisco, Napa and Calistoga Railway.

#### ORDER.

A public hearing having been held in the above-entitled proceeding and the matter having been duly submitted and the commission being fully advised and basing its order on the findings of fact as set forth in the foregoing opinion,

*It is hereby ordered* that this application be and the same hereby is denied.

Dated at San Francisco, California, this twenty-ninth day of September, 1917.

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#### DECISION No. 4689.

IN THE MATTER OF THE APPLICATION OF R. B. EVEREST FOR AN ORDER DECLARING THAT PUBLIC CONVENIENCE AND NECESSITY REQUIRE THE OPERATION OF AN AUTOMOBILE PASSENGER SERVICE BETWEEN SAN DIEGO AND CAMP KEARNEY.

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#### Application No. 3200.

*Decided September 29, 1917.*

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BY THE COMMISSION.

#### ORDER OF DISMISSAL.

The petitioner in the above-entitled proceeding having made public request at the hearing held herein in San Diego on the twenty-first day

of September, 1917, that the above-entitled proceeding be dismissed, and good cause appearing.

*It is hereby ordered* that the above-entitled proceeding be and the same is hereby dismissed.

Dated at San Francisco, California, this twenty-ninth day of September, 1917.

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DECISION No. 4690.

IN THE MATTER OF THE APPLICATION OF SOUTHERN CALIFORNIA EDISON COMPANY FOR AN ORDER OF THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA AUTHORIZING IT TO MAKE, EXECUTE AND DELIVER A TRUST DEED COVERING ALL OF ITS PROPERTIES OF EVERY NATURE AND CHARACTER WHATSOEVER, TO SECURE A BONDED INDEBTEDNESS AND TO ISSUE, SELL AND DELIVER TEN MILLION DOLLARS FACE VALUE OF BONDS UNDER SAID TRUST DEED.

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Application No. 3032.

*Decided October 2, 1917.*

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BY THE COMMISSION.

**THIRD SUPPLEMENTAL ORDER.**

Southern California Edison Company having filed with the Railroad Commission a statement showing that it has expended for construction purposes during the months of July and August, 1917, the sum of \$813,882.77, and it appearing that the sum so expended was for proper capital purposes, and that applicant is entitled to expend \$610,412.03 of the proceeds from the \$3,000,000.00 of bonds referred to in subdivision "a" of condition "3" of the order in Decision No. 4468, dated July 19, 1917, to finance in part said construction expenditures; now, therefore,

*It is hereby ordered* that Southern California Edison Company be and it is hereby authorized to use \$610,412.03 of the proceeds from the \$3,000,000.00 of the bonds referred to in subdivision "a" of condition "3" of the order in Decision No. 4468, dated July 19, 1917, to pay in part for its construction expenditures during July and August, 1917.

Dated at San Francisco, California, this second day of October, 1917.

## DECISION No. 4691.

IN THE MATTER OF THE APPLICATION OF SIERRA AND SAN FRANCISCO POWER COMPANY FOR AN ORDER AUTHORIZING THE ISSUANCE OF FIRST MORTGAGE BONDS OF THE FACE VALUE OF ONE MILLION DOLLARS.

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Application No. 2586.

*Decided October 3, 1917.*

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Applicant authorized to use \$450,000.00 of the proceeds of bonds heretofore authorized for the purpose of purchasing the La Grange Division of the Yosemite Power Company, the transfer of which property was authorized by the commission's Decision No. 4619.

*Chickering & Gregory, by Warren Gregory, for Applicant.*

DEVLIN, *Commissioner.*

## SUPPLEMENTAL OPINION.

The Railroad Commission of the state of California by Decision No. 3816, dated October 24, 1916, authorized applicant herein to issue \$1,000,000.00 face value of its first mortgage, 5 per cent, forty-year gold bonds under its supplemental indenture of first mortgage dated July 27, 1910.

Condition No. 2 of said Decision No. 3816, dated October 24, 1916, reads as follows:

“The bonds herein authorized to be issued shall be issued for the purpose of reimbursing applicant for a portion of the expenditures set forth in Exhibit “H” as amended and filed with the application herein, and thereafter the proceeds from the sale of the bonds herein authorized to be issued shall be placed in a special fund and used by applicant only for additions and betterments under supplemental orders from this commission.”

Applicant herein, on September 18, 1917, filed in the above-entitled matter its eighth supplemental application for authority to pay out of the proceeds from the sale of said \$1,000,000.00 par value first mortgage bonds, the sum of \$450,000.00 as the purchase price of the La Grange Division of the Yosemite Power Company, the transfer of said property having been authorized by the commission in its Decision No. 4619, issued on September 5, 1917.

A public hearing was held herein on September 24, 1917, at San Francisco.

Applicant in this supplemental application states that it (applicant) “does not ask for any greater sum than this commission is willing to have your petitioner so capitalize said properties, and that it is the understanding of your petitioner that in issuing its order and Decision

No. 4619, based upon said Application No. 3045, this commission has approved of the right of your petitioner Sierra and San Francisco Power Company to capitalize the amount so authorized to be paid, and this present application is made upon such understanding."

In so far as the language just quoted expresses the understanding of petitioner that in issuing its order in Decision No. 4619 this commission approved the right of petitioner to capitalize the amount so authorized to be paid, petitioner is in error as said order and Decision No. 4619 expressly declare:

"And provided, further, that the consideration given for the property herein authorized to be transferred shall not be taken before this commission or any other public body as representing the value of said property for rate fixing or any other purpose, except for the purpose of this proceeding."

It is, however, readily understandable why petitioner is desirous of ascertaining the amount at which this commission would permit said properties to be capitalized for rate fixing purposes, and inasmuch as this commission has just completed a rate investigation in connection with said properties, this information and advice is readily available to applicant. This entire matter is completely disposed of in the commission's decision rendered in Case No. 909, *City of Turlock vs. Yosemite Power Company*, and Application No. 2410, *In the Matter of the Application of Yosemite Power Company for an order fixing just and reasonable rates to be charged by it for electrical current and just and reasonable regulations for its different classes of service*, the decision in said matters being issued contemporaneously with the decision in this proceeding, and to which reference is hereby made for the finding of value of the properties which constitute said La Grange Division for rate fixing purposes.

I submit the following form of order:

#### **EIGHTH SUPPLEMENTAL ORDER.**

Sierra and San Francisco Power Company having asked for authority to use \$450,000.00 of the proceeds obtained from the sale of the afore-said \$1,000,000.00 face value of bonds for the purchase of said La Grange Division of the Yosemite Power Company, exclusive of additions and betterments made thereto since December 1, 1916, a public hearing having been held thereon, the matter having been submitted and being now ready for decision, the Railroad Commission hereby finds as a fact that the said sum of \$450,000.00 is to be expended for proper capital purposes and is not in whole or in part reasonably chargeable to operating expenses or to income.

Basing its order on the foregoing finding of fact and on the other findings of fact which are contained in the opinion which precedes this order,

*It is hereby ordered* that Sierra and San Francisco Power Company be and it is hereby authorized to use \$450,000.00 of the proceeds obtained from the sale of its \$1,000,000.00 face value of its first mortgage, 5 per cent, forty-year gold bonds, the issue of which was authorized by Decision No. 3816, dated October 24, 1916, for the purchase of the La Grange Division of the Yosemite Power Company, the transfer of which property was authorized by the commission's Decision No. 4619, dated September 5, 1917.

*It is hereby further ordered* that this commission's Decision No. 3816, dated October 24, 1916, as amended by the supplemental orders of the Railroad Commission, shall remain in full force and effect, except as modified by this opinion and order on eighth supplemental application.

The foregoing supplemental opinion and eighth supplemental order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the state of California.

Dated at San Francisco, California, this third day of October, 1917

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DECISION No. 4692.

CITY OF TURLOCK

*vs.*

YOSEMITE POWER COMPANY.

Case No. 909.

IN THE MATTER OF THE APPLICATION OF THE YOSEMITE POWER  
COMPANY FOR AN ORDER FIXING JUST AND REASONABLE RATES  
AND REGULATIONS FOR ELECTRIC SERVICE.

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Application No. 2410.

*Decided October 3, 1917.*

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Investigation showing that the schedules of rates in effect on applicant's system did not provide an excessive return upon its investment, and also as the properties have recently been taken over by Sierra and San Francisco Power Company, which latter company has established schedules of rates containing reductions of approximately 10 per cent over rates heretofore in effect, complaint and application dismissed. New interests in control of properties directed to confer with officials of city of Turlock looking towards a satisfactory agreement with reference to street lighting in said city.

*R. R. Fowler*, and *W. N. Graybiel*, for Complainant.

*W. I. Titus*, for Defendant.

BY THE COMMISSION.

# OPINION.

Case No. 909, the first of the proceedings herein, is a complaint of the city of Turlock alleging in effect that the street lighting service rendered by defendant in that city is unsatisfactory and that the rates charged for this as well as other electric service rendered by defendant, to the municipality and its individual inhabitants, are excessive.

Application No. 2410 was filed by the Yosemite Power Company some time after the aforesaid complaint was made in Case No. 909. The commission is thereby requested to determine and fix just and reasonable rates, rules and regulations to be made effective by the Yosemite Power Company throughout all that portion of its electric system commonly known as the "La Grange Division." Hearings in both of these matters were held before Examiner Encell at Turlock and it was stipulated that the proceedings might be consolidated for hearing and decision.

For the purpose of a general rate analysis, careful appraisals of the company's property on several bases, were submitted by Mr. J. F. Pollard, an assistant engineer of the commission, and complete data concerning operating expenses, maintenance and load statistics were presented by the company. The several estimates as to the cost of the operating property which may be considered as elements to be taken into account in a determination of "fair value" are as follows:

Estimated historical reproduction cost as of June 30, 1916-----	\$559,235 05
Original book cost (adjusted) -----	473,774 00
Estimated historical reproduction cost less depreciation as of June 30, 1916 -----	366,988 00

The gross revenue for 1916, which may be taken as a typical year, was \$71,677.45. The operating expenses for the same period as reported were \$50,249.46. This figure included \$15,265.56, being the Yosemite Power Company's estimate of annual depreciation, and approximately \$3,000.00 in operating expenses not chargeable to the operation of the La Grange Division, being a part of the company's expenditures for the development of its nonoperative properties. This latter item may be excluded inasmuch as hereinbefore noted only the rates in the La Grange Division are under consideration in these proceedings. The net revenue for depreciation annuity and interest upon the investment for the year 1916 was, therefore, \$39,683.55, or approximately 8 per cent on the investment of \$474,000.00 in this property, which may be considered as a fair basis for rate fixing purposes. After deducting a reasonable allowance from this revenue, for depreciation, the net return available for interest is reduced to approximately 6 per cent of the investment. If, therefore, the commission adheres to the policy, heretofore established in other rate fixing proceedings, of allowing the utility

a fair return on the amount of money actually invested for the benefit of the public where the capital expenditures have been made with reasonable care and wisdom, it would appear that no reduction in the rates of the Yosemite Power Company which would result in a reduction in net revenue is warranted at this time. On the other hand, although the commission does not desire to be understood as limiting the return on the investment in a property of this kind to 6 per cent, the operating conditions of the Yosemite company and the character of the territory served are such as would, in our opinion, not justify any increase in present rates.

Subsequent to the submission of the matters involved in this proceeding, Application No. 3045 was filed by the Yosemite Power Company and the Sierra and San Francisco Power Company, jointly, asking for the commission's authorization of the sale and purchase respectively of that portion of the property and business of the Yosemite Power Company known as the "La Grange Division." In the course of its testimony at the hearing in that proceeding, Sierra and San Francisco Power Company, as the prospective purchaser, indicated that in the event that said purchase received the approval of the commission the Sierra and San Francisco Power Company upon assuming control of the property would voluntarily put into effect for electric service supplied by said La Grange Division, the same rates as applied generally to service over other portions of its San Joaquin Division as follows:

#### **SCHEDULE "N."**

##### **Residence Lighting and Cooking and Small Motors.**

###### *Character of Service.*

This rate is applicable only for domestic use in residences, flats and apartments occupied by single families. Lamp socket electrical appliances and motors of less than one horsepower capacity are included under this rate. No motor having a capacity in excess of one horsepower shall be installed and used under this rate.

###### **RATES.**

First 25 kilowatt hours, monthly, 10 cents per kilowatt hour.

Over 25 kilowatt hours, monthly, 3 cents per kilowatt hour.

Prompt payment discounts—A discount of 10 per cent will be allowed on all bills paid at the office of the company on or before the tenth of the month succeeding that in which service is rendered, but in no case shall the monthly bill to be paid be less than \$1.00.

Minimum charge—\$1.00 per month per meter.

Terms and conditions—Electric appliances used in the home, which may be operated from a lighting socket, such as irons, fans, percolators, chafing dishes, motors of one horsepower and under, and portable heating devices of 1,000 watts and under can be operated under this schedule.

Electric ranges, water heaters and heating devices with capacity of over 1,000 watts can be operated under this schedule, but special permission must be obtained from power company before connecting same.



**SCHEDULE "M."****Commercial Lighting and Small Motors.***Character of Service.*

This rate is applicable in general to all lighting service not covered by Schedule "N." Lamp socket electrical appliances and motor installations of one horsepower or less are included under this rate. No motor having a capacity in excess of one horsepower shall be installed and used under this rate.

**RATES.**

First	50 kilowatt hours, monthly,	10 cents per kilowatt hour.
Next	50 kilowatt hours, monthly,	9 cents per kilowatt hour.
Next	100 kilowatt hours, monthly,	8 cents per kilowatt hour.
Next	200 kilowatt hours, monthly,	7 cents per kilowatt hour.
Next	200 kilowatt hours, monthly,	6 cents per kilowatt hour.
Next	200 kilowatt hours, monthly,	5 cents per kilowatt hour.
Next	200 kilowatt hours, monthly,	4 cents per kilowatt hour.
Over 1,000	kilowatt hours, monthly,	3 cents per kilowatt hour.

Prompt payment discounts—A discount of 10 per cent will be allowed on all bills paid at the office of the company on or before the tenth of the month succeeding that in which service is rendered, but in no case shall the monthly bill to be paid be less than \$1.00.

Minimum charge—\$1.00 per month per meter.

**SCHEDULE "C."****General Cooking and Heating Rate.***Character of Service.*

This rate is applicable for electric cooking and heating.

**RATES.**

First	50 kilowatt hours, monthly,	5 cents per kilowatt hour.
Next	100 kilowatt hours, monthly,	4 cents per kilowatt hour.
Over 150	kilowatt hours, monthly,	3 cents per kilowatt hour.

Prompt payment discounts—None.

Minimum charge—\$3.00 per meter per month.

**SCHEDULE "D."****General Power Rate.***Character of Service.*

This rate is applicable to power installations in excess of one horsepower.

**RATES.**

First	50 kilowatt hours per month per horsepower of rated capacity,	4 cents per kilowatt hour.
Next	100 kilowatt hours per month per horsepower of rated capacity,	2 cents per kilowatt hour.
Over 150	kilowatt hours per month per horsepower of rated capacity,	1 cent per kilowatt hour.

Prompt payment discounts—A discount of 1 per cent for each five horsepower of capacity is allowed in power rates up to a total discount of 30 per cent, provided bills are paid at office of the company on or before tenth of month succeeding that for which bill was rendered.

Minimum charge—Monthly minimum, 50 cents per horsepower of rated capacity per month, or yearly minimum of \$12.00 per horsepower rated capacity.

Term—Contract required for one year.

Terms and conditions—The company shall not be required to serve motors of less than five horsepower capacity with three-phase current.

**SCHEDULE "J."****Temporary Power Service.***Character of Service.*

Applicable to all power connections for less than one year, for entire territory, where installation is in excess of one horsepower.

**RATES.**

First 50 kilowatt hours per month per horsepower of rated capacity, 4 cents per kilowatt hour.

Next 100 kilowatt hours per month per horsepower of rated capacity, 2 cents per kilowatt hour.

Over 150 kilowatt hours per month per horsepower of rated capacity, 1 cent per kilowatt hour.

Prompt payment discounts—None.

Minimum charge—\$1.00 per horsepower per month of manufacturers' rated capacity of machinery. Full monthly minimum shall be paid by consumer for any fractional part of month.

Terms and conditions—Consumer to pay for all labor and material used in connection with extension of lines, running the service, hanging transformers and connecting meter, meters to be furnished by the company. The company shall not be required to serve motors of less than five horsepower capacity with three-phase current.

**SCHEDULE "R."****Company Employees' Rate.***Character of Service.*

Applicable to all connections for lighting, cooking and heating for residences of company employees.

**RATES.**

First 40 kilowatt hours per month, free.

Next 100 kilowatt hours per month, 3 cents per kilowatt hour.

Over 140 kilowatt hours per month, 1 cent per kilowatt hour.

Minimum charge—None.

Terms and conditions—This rate applies only to cases where the employee's family is living alone and the employee is the main support thereof.

**SCHEDULE "S."****Service Plus Energy Power Rate.***Character of Service.*

This rate is applicable to entire territory for power.

**RATES.**

Installations from 1 to 9 horsepower,  $1\frac{1}{2}$  cents per kilowatt hour.

Installations from 10 to 49 horsepower,  $1\frac{1}{4}$  cents per kilowatt hour.

Installations from 50 to 99 horsepower, 1 cent per kilowatt hour.

Installations from 100 horsepower or over,  $\frac{1}{2}$  cent per kilowatt hour.

Plus \$1.00 per horsepower per month service charge, or a service charge of \$1.25 per horsepower per month for not less than six specified months, with the above energy charge for the said specified six months and an energy charge of  $2\frac{1}{2}$  cents per kilowatt hour with no service charge for the months not specified.

Prompt payment discounts—None.

Minimum charge—Service charge during the specified months. Nothing for months not specified.

Term—Contract required for one year.

Terms and conditions—The company shall not be required to serve motors at less than five horsepower capacity with three-phase current.

**Municipal Street Lighting.**

Yearly rate for municipal series street lighting service. All night schedule on lamp basis. This schedule applies to the series street lighting service on lamp basis all night and every night lighting schedule and includes all maintenance and lamp renewals necessary for such service.

**RATES.**

Regular lamps 6.6 ampere series direct current magnetite lamps, \$54.00 per lamp per year.

100 candle power series incandescent street lamps, \$21.60 per lamp per year.

Prompt payment discounts or delayed payment penalties—None.

Minimum charge—Flat yearly rate lamp service. Company furnishes lamps free.

**Special Rate to City Water Works Pumping Plant.**

2 cents per kilowatt hour.

The establishment of these rates will effect a reduction somewhat in excess of 10 per cent in the cost per kilowatt hour to consumers for lighting service and a similar reduction in greater or less amounts in the power rates, depending upon the operating conditions of individual consumers. This reduction will be justified by the increased efficiency in general and administrative departments, which will be effected by the consolidation of this property with the larger system of the Sierra and San Francisco Power Company. The result will therefore be a considerable saving to the consumers in this territory.

The commission's Decision No. 4619 in Application No. 3045, rendered on September 5, 1917, granted the desired authority for the Yosemite Power Company to sell its La Grange Division to the Sierra and San Francisco Power Company, and the actual transfer of this property will take place about October 1, 1917, at which time the above rates will be voluntarily made effective by the Sierra and San Francisco Power Company as the new owners.

The testimony herein indicated that the principal complaint in regard to street lighting service is to the effect that a number of the incandescent lamps were, prior to the filing of the complaint herein, supported on comparatively short brackets on poles at the sides of the streets, and were more or less completely surrounded by the foliage of shade trees so as to impair their efficiency. The commission is advised that since that time a number of these street lights have been removed by the Yosemite Power Company to a position in the center of the intersecting streets. Inasmuch as the commission is not now fully advised as to the number of lamps which may still be obscured in this way, and inasmuch as the new interests have not had any opportunity to negotiate with the city officials as to the number of lamps to be removed and the method of taking care of this expense, we believe that the commission should temporarily withhold its order in regard to that portion of the complaint herein which relates to street lighting

service, with the recommendation that the new interests controlling this property shall endeavor to reach an agreement with the city officials as to this matter within a reasonable time.

#### ORDER.

Public hearings having been held in the above-entitled proceedings, and said proceedings having been submitted and being now ready for decision, and the commission finding as a fact that the rates heretofore charged by the Yosemite Power Company do not result in a net revenue to said Yosemite Power Company greater than a fair return on the value of its property, used and useful in serving its consumers, and it being understood that the Sierra and San Francisco Power Company, which is about to acquire the operative properties of the Yosemite Power Company, will voluntarily place in effect the rates as set forth in the opinion preceding this order, which will result in a material saving to the complainants herein and to other consumers in this territory;

The commission basing its order upon the above finding of fact, and the findings of fact as set forth in the opinion preceding this order,

*It is hereby ordered,*

1. That the complaint of the city of Turlock in so far as it refers to the rates of the Yosemite Power Company be and the same is hereby dismissed.

2. That Application No. 2410 of the Yosemite Power Company for the determination by the commission of just and reasonable rates to be charged for service delivered by its operative properties be and the same is hereby dismissed.

3. That Sierra and San Francisco Power Company, as the new owner of the electric utility properties involved in the proceedings herein, shall endeavor to reach a mutually satisfactory agreement with the officials of the city of Turlock in regard to the improvement of the street lighting service in that city and shall, within thirty days from the date hereof, file with this commission for its approval a plan for disposing of this part of the complaint.

The foregoing is hereby approved and ordered filed as the opinion and order of the Railroad Commission of the state of California.

Dated at San Francisco, California, this third day of October, 1917.

Decision No. 4693, grade crossing, not printed. See end of volume.

DECISION NO. 4694.

IN THE MATTER OF THE APPLICATION OF BURKE CORPORATION  
FOR CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY  
TO OPERATE A STAGE OR TRUCK SERVICE BETWEEN BURKE  
AND SANTA ROSA.

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Application No. 3214.

*Decided October 3, 1917.*

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BY THE COMMISSION.

**ORDER.**

Burke Corporation having applied to this commission for a certificate declaring that public convenience and necessity require the operation by it of automobile passenger, freight and express service between Burke and Santa Rosa, in Sonoma County, and it appearing to the commission that this is not a case in which a public hearing is necessary and that the application should be granted,

It is hereby declared that public convenience and necessity require the exercise by Burke Corporation of an automobile passenger, freight and express service between Burke and Santa Rosa, in Sonoma County, provided that the order herein shall not become effective until Burke Corporation has secured from the Railroad Commission a supplemental order herein reciting that said Burke Corporation has filed herein certified copies of permits from the county of Sonoma and the city of Santa Rosa, as provided by section 3 of chapter 213, laws of 1917; and provided, further, that the rights and privileges herein granted shall not be assigned or transferred unless the written consent of the Railroad Commission to such assignment or transfer has first been secured.

Dated at San Francisco, California, this third day of October, 1917.

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Decisions Nos. 4695, 4696, and 4697, grade crossings; not printed. See end of volume.

DECISION NO. 4698.

IN THE MATTER OF THE APPLICATION OF WHITE BUS LINE FOR  
LEAVE TO OPERATE BRANCH LINE BETWEEN BREA AND OLINDA.

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Application No. 3154.

*Decided October 3, 1917.*

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Applicant granted a certificate permitting the operation of auto bus service between the towns of Brea and Olinda in the county of Orange, provided the necessary permit for such operation is obtained from the public authorities of such county.

*H. W. Kidd*, for Applicant.

By THE COMMISSION.

### OPINION.

Petitioner, a corporation, asks the Railroad Commission to make its order declaring that public convenience and necessity require the operation by petitioner of an automobile stage service between Brea and Olinda, Orange County.

A public hearing herein was held before Examiner Encell at Brea on September 27, 1917.

Petitioner is engaged in the operation of an automobile stage line between Los Angeles and points in Orange County and desires to operate in connection with its existing service a branch line between the towns of Brea and Olinda, in Orange County, a distance of about four miles.

The equipment proposed to be used is an automobile bus with a seating capacity of sixteen passengers, similar in type and construction to the automobile busses now operated on the existing lines of petitioner.

The schedule of fares proposed by the petitioner for the proposed branch line and to points on the existing line is as follows:

Between stations—	One way	Round trip
Olinda -----		
Brea -----	25 cents	40 cents
Coyote -----	30 cents	55 cents
Fullerton -----	40 cents	65 cents
Anaheim -----	50 cents	75 cents
Stewart -----	30 cents	50 cents
La Habra -----	35 cents	50 cents
Des Moines -----	45 cents	60 cents
County Line -----	50 cents	75 cents
Leffingwell -----	50 cents	75 cents
Whittier -----	60 cents	90 cents
Pico and Jim Town -----	70 cents	\$1.00
Montebello -----	70 cents	1.00
Los Angeles -----	75 cents	1.25

The proposed time schedule for the branch line and the connections at Brea with the existing line of petitioner is as follows:

	a.m.	a.m.	a.m.	a.m.	p.m.	p.m.	p.m.	p.m.	p.m.
Lv. Los Angeles -----			7.30	10.30	2.30	3.30	4.30	7.00	8.30
Lv. Brea -----	5.50	6.50	8.50	11.50	3.50	4.50	5.50	8.20	9.50
Ar. Olinda -----	6.15	7.15	9.15	12.15	4.15	5.15	6.15	8.45	10.15
	a.m.	a.m.	a.m.	p.m.	p.m.	p.m.	p.m.	p.m.	p.m.
Lv. Olinda -----	6.25	7.25	9.25	12.25	4.25	5.25	6.50	8.50	10.30
Lv. Brea -----	6.45	7.45	9.45	12.45	4.45	5.45	7.15	9.15	10.45
Ar. Los Angeles -----	8.00	9.00	11.00	2.00	6.00	7.00	8.30	10.30	12.00
	a.m.	a.m.	a.m.	a.m.	p.m.	p.m.	p.m.	p.m.	p.m.*
Lv. Anaheim -----		6.30	8.30	11.30	3.30	4.30	5.30	8.00	9.00
Lv. Brea -----	5.50	6.50	8.50	11.50	3.50	4.50	5.50	8.20	9.50
Ar. Olinda -----	6.15	7.15	9.15	12.15	4.15	5.15	6.15	8.45	10.15
	a.m.	a.m.	a.m.	p.m.	p.m.	p.m.	p.m.*	p.m.*	
Lv. Olinda -----	6.25	7.25	9.25	12.25	4.25	5.25	6.50	8.50	10.30
Lv. Brea -----	6.45	7.45	9.45	12.45	4.45	5.45	7.15	9.15	10.45
Ar. Anaheim -----		8.00	10.00	1.00	5.00	6.00	7.30	10.00	11.30

\*Passengers on this car will have to lay over 30 minutes at Brea.

Petitioner has not secured permit from the county of Orange as required by section 3 of the act of May 10, 1917, but intends to make prompt application therefor. The order herein will not become effective until the Railroad Commission has made a supplemental order herein reciting that such permit has been secured.

For a statement of the leading provisions of the act of May 10, 1917, and of the principles to be applied in applications of this character, reference is hereby made to Decision No. 4674, dated September 26, 1917, in Application No. 3159—Santa Clara Valley Auto Line.

The town of Olinda and the territory immediately tributary thereto has a population of approximately one thousand people. There is no regularly established transportation service, the station of Oleo on the line of the Pacific Electric Railway being approximately one and one-half miles from the business center of the town. The Atchison, Topeka and Santa Fe Railway serves Olinda with freight service on irregular schedule but passengers desiring to use such line are obliged to go to the station of Richfield, a distance of 4.02 miles.

The town of Brea is served by the existing line of the petitioner and also by the Pacific Electric Railway Company. It is the intention of petitioner to establish a branch line service between Olinda and Brea, connecting at the latter point with the established service now operated by the petitioner between Anaheim and Los Angeles. The intervening territory between Olinda and Brea is sparsely settled.

No protest was made at the hearing on this petition against the establishment of the proposed service.

In view of the isolated location of the town of Olinda, the present absence of convenient transportation facilities, and the opportunity for the service of the community at Olinda by a regular schedule by a reliable service as contemplated by the petitioner, we are of the opinion and find as a fact that public convenience and necessity require the operation by the White Bus Line of an automobile stage service as a common carrier of passengers between Brea and Olinda, Orange County, on the conditions specified in the following order.

#### ORDER.

White Bus Line, a corporation, having filed a petition asking that the Railroad Commission make its order declaring that public convenience and necessity require the operation by the White Bus Line of an automobile stage service as a common carrier of passengers between Brea and Olinda, Orange County, a public hearing having been held, the matter having been submitted and being now ready for decision, the Railroad Commission hereby finds as a fact that public convenience and necessity require the operation by White Bus Line, a corporation, of an

automobile stage line between Brea and Olinda, Orange County, on the conditions hereinafter specified.

Basing its order on the foregoing finding of fact and on the other findings of fact contained in the opinion which precedes this order,

The Railroad Commission hereby declares that public convenience and necessity require the operation by White Bus Line, a corporation, of an automobile stage service as a common carrier of passengers between Brea and Olinda, Orange County, provided that this declaration shall not become effective until said White Bus Line has secured from the Railroad Commission a supplemental order herein reciting that it has filed herein certified copy of permit from the board of supervisors of the county of Orange as provided by section 3 of chapter 213, laws of 1917; and provided, further, that the rights and privileges herein granted shall not be assigned or transferred unless the written consent of the Railroad Commission to such assignment or transfer has first been secured.

Dated at San Francisco, California, this third day of October, 1917.

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DECISION No. 4699.

IN THE MATTER OF THE APPLICATION OF THE VALLEY STAGE LINE  
FOR CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY TO  
OPERATE STAGE SERVICE BETWEEN LOS ANGELES AND ANA-  
HEIM VIA CLEARWATER, ARTESIA AND CYPRESS.

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Application No. 3207.

*Decided October 3, 1917.*

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**Applicant granted a certificate permitting the operation of auto bus service between Los Angeles and Anaheim and intermediate points, provided that all necessary permits are secured from the public authorities of the territory through which applicant proposes to operate.**

*Hass & Dunnigan and L. A. Lewis, by J. J. Wilson, for Applicant.*  
*Howard Robertson, assistant city attorney, for city of Los Angeles.*

*LOVELAND, Commissioner.*

**OPINION.**

This is an application on behalf of Valley Stage Line, owned by F. P. Ogden and Francis Wilson, for a certificate of public convenience and necessity under the provisions of section five (5) of chapter two hundred thirteen (213) of the 1917 statutes of the state of California, as approved May 10, 1917.

A public hearing was held at Los Angeles on September 24, 1917. The matter was duly submitted and is now ready for decision.



The applicant, Valley Stage Line, is now engaged in the auto stage service between Los Angeles and Anaheim via a route passing through Norwalk, Buena Park and Fullerton. Applicant desires to establish a route from Los Angeles to Anaheim via Lynwood, Compton Corners, Clearwater, Hynes, Bellflower, Artesia, Los Alamitos Corner, Cypress and other intermediate points, and alleges that there is no steam or electric railway nor stage route operating over the line for which permit is sought and that a great number of the communities which would be served by the establishment of the proposed route are not now served by any method of transportation.

The rates proposed to be established by the applicant herein are as follows:

	One way	Round trip	10-ride books good for 30 days
Los Angeles to—			
Lynwood .....	\$0.20	\$0.35	\$1.25
Compton Corners .....	.25	.40	1.50
Clearwater and Hynes .....	.30	.45	1.75
Bellflower Road .....	.35	.55	2.00
Artesia .....	.40	.60	2.50
Los Alamitos Corner .....	.40	.65	2.60
Cypress .....	.45	.70	3.00
Hanson Road .....	.50	.85	3.75
Stanton Road .....	.60	1.00	4.50
Carroll Ranch .....	.70	1.15	4.75
Anaheim .....	.75	1.25	5.00
Lynwood to—			
Compton Corners .....	.10		
Clearwater and Hynes .....	.20	.35	1.25
Bellflower Road .....	.25	.40	1.50
Artesia .....	.30	.45	1.75
Los Alamitos Corner .....	.35	.50	2.00
Cypress .....	.40	.55	2.50
Hanson Road .....	.45	.65	3.00
Stanton Road .....	.50	.85	3.75
Carroll Ranch .....	.60	1.00	4.50
Anaheim .....	.70	1.15	4.75
Compton Corners to—			
Clearwater and Hynes .....	.15	.25	1.00
Bellflower Road .....	.20	.35	1.25
Artesia .....	.25	.40	1.50
Los Alamitos Corner .....	.30	.45	1.75
Cypress .....	.35	.50	2.00
Hanson Road .....	.40	.55	2.50
Stanton Road .....	.45	.65	3.00
Carroll Ranch .....	.50	.85	3.75
Anaheim .....	.60	1.00	4.50
Clearwater and Hynes to—			
Bellflower .....	.15	.25	1.00
Artesia .....	.20	.35	1.25
Los Alamitos Road .....	.25	.40	1.50
Cypress .....	.30	.45	1.75
Hanson Road .....	.35	.50	2.00
Stanton Road .....	.40	.55	2.50
Carroll Ranch .....	.45	.65	3.00
Anaheim .....	.50	.85	3.75

	One way	Round trip	10-ride books good for 30 days
<b>Bellflower Road to—</b>			
Artesia .....	.15	.25	1.00
Los Alamitos Road .....	.20	.35	1.25
Cypress .....	.25	.40	1.50
Hanson Road .....	.30	.45	1.75
Stanton Road .....	.35	.50	2.00
Carroll Ranch .....	.40	.55	2.50
Anaheim .....	.45	.70	3.00
<b>Artesia to—</b>			
Los Alamitos Road .....	.10		
Cypress .....	.15	.25	1.00
Hanson Road .....	.25	.40	1.50
Stanton Road .....	.30	.50	2.00
Carroll Ranch .....	.35	.60	2.50
Anaheim .....	.40	.65	3.00
<b>Los Alamitos Road to—</b>			
Cypress .....	.10		
Hanson Road .....	.20	.35	1.25
Stanton Road .....	.25	.40	1.50
Carroll Ranch .....	.30	.50	2.00
Anaheim .....	.40	.60	2.50
<b>Cypress to—</b>			
Hanson Road .....	.10		
Stanton Road .....	.15	.25	1.00
Carroll Ranch .....	.25	.40	1.50
Anaheim .....	.30	.50	2.00
<b>Hanson Road to—</b>			
Stanton Road .....	.10		
Carroll Ranch .....	.20	.35	1.25
Anaheim .....	.25	.40	1.50
<b>Stanton Road to—</b>			
Carroll Ranch .....	.10		
Anaheim .....	.20	.30	1.25
<b>Carroll Ranch to—</b>			
Anaheim .....	.15	.25	1.00

Ten-ride books good 30 days from date of sale will be sold to children between the ages of 6 and 18 years and good for passage daily between the hours of 6 a.m. and 7 p.m. at a reduction of 20 per cent from above tariff.

The time schedule proposed to be established by applicant herein is as follows:

Leave	a.m.	a.m.	a.m.	p.m.	p.m.	p.m.	p.m.	p.m.	p.m.
Los Angeles .....	7.00	9.00	11.00	-----	1.00	3.00	5.00	7.00	10.00
Lynwood .....	7.25	9.25	11.25	-----	1.25	3.25	5.25	7.25	10.25
Hynes .....	7.40	9.40	11.40	-----	1.40	3.40	5.40	7.40	10.40
Artesia .....	8.00	10.00	12.00	-----	2.00	4.00	6.00	8.00	11.00
Cypress .....	8.10	10.10	-----	12.10	2.10	4.10	6.10	8.10	11.10
Anaheim .....	8.30	10.30	-----	12.30	2.30	4.30	6.30	8.30	11.30
<b>Leave</b>	<b>a.m.</b>	<b>a.m.</b>	<b>a.m.</b>	<b>p.m.</b>	<b>p.m.</b>	<b>p.m.</b>	<b>p.m.</b>	<b>p.m.</b>	<b>p.m.</b>
Anaheim .....	7.00	9.00	11.00	-----	1.00	3.00	5.00	7.00	9.00
Cypress .....	7.15	9.15	11.15	-----	1.15	3.15	5.15	7.15	9.15
Artesia .....	7.25	9.25	11.25	-----	1.25	3.25	5.25	7.25	9.25
Hynes .....	7.45	9.45	11.45	-----	1.45	3.45	5.45	7.45	9.45
Lynwood .....	8.00	10.00	12.00	-----	2.00	4.00	6.00	8.00	10.00
Los Angeles .....	8.30	10.30	-----	12.30	2.30	4.30	6.30	8.30	10.30

Applicant has not purchased the equipment proposed to be used, but in the event of approval of this application proposes to immediately purchase at least four Reo stages, of 35 horsepower, sixteen passenger capacity, similar to the equipment now being operated over the present route of the applicant between Los Angeles and Anaheim.

For a statement of the leading provisions of the act of May 10, 1917, and of the principles to be applied in applications of this character, reference is hereby made to Decision No. 4674 rendered in Application 3159—Santa Clara Valley Auto Line—as approved September 26, 1917.

It appears from the testimony in this proceeding that a number of communities will receive service by the proposed establishment of this stage line. The community at Clearwater will be directly served and at present is reached by the Pacific Electric Railway Company whose station of Clearwater is located some three-quarters of a mile from the business center. The community at Hynes is located about one and one-half miles from the line of the Pacific Electric Railway and will be directly served by the proposed route. Other communities are located at varying distances, from three-quarters to one and one-half miles, from the line of the Pacific Electric Railway. At Artesia the highway crosses the Pacific Electric Railway; the latter company, however, gives no service to Anaheim and passengers for such point are at present obliged to use the Pacific Electric Railway to Santa Ana and there transfer to The Atchison, Topeka and Santa Fe or continue to Orange on the line of the Pacific Electric Railway and then use either the line of The Atchison, Topeka and Santa Fe or stage service to Anaheim. The Southern Pacific Company serves the terminal stations of Anaheim and Los Angeles but furnishes no service to the intermediate communities that would be cared for by the proposed line.

At the hearing of this application no protest was made by any established transportation line serving the territory sought to be entered by the proposed stage route.

No permits as required by section 3 of chapter 213 of the Statutes of 1917 have yet been secured by the applicant from the board of trustees of the city of Anaheim, the city council of the city of Los Angeles, the board of supervisors of the county of Los Angeles and the board of supervisors of the county of Orange.

I find as a fact that public convenience and necessity require the operation by Valley Stage Line of an automobile stage route as a common carrier of passengers between Los Angeles and Anaheim via Lynwood, Compton Corners, Clearwater, Hynes, Bellflower, Artesia, Los Alamitos Corner, Cypress and other intermediate points, on the conditions specified in the following order.

I submit the following form of order :

**ORDER.**

Valley Stage Line, owned by F. P. Ogden and Francis Wilson, having filed a petition asking that the Railroad Commission make its order declaring that public convenience and necessity require the operation of an automobile stage line as a common carrier of passengers between Los Angeles and Anaheim over the route as set forth in the foregoing opinion, a public hearing having been held, the matter having been submitted and being now ready for decision, the Railroad Commission hereby finds as a fact that public convenience and necessity require the operation by F. P. Ogden and Francis Wilson, owners of Valley Stage Line, of an automobile stage line as a common carrier of passengers between Los Angeles and Anaheim over the route as set forth in the foregoing opinion, on the conditions hereinafter specified.

Basing its order on the foregoing finding of fact and on the other findings of fact contained in the opinion which precedes this order.

The Railroad Commission hereby declares that public convenience and necessity require the operation by F. P. Ogden and Francis Wilson, owners of Valley Stage Line, of an automobile stage service as a common carrier of passengers between Los Angeles and Anaheim over the route as set forth in the foregoing opinion, provided that this declaration shall not become effective until said F. P. Ogden and Francis Wilson have secured from the Railroad Commission a supplemental order herein reciting that they have filed herein certified copies of permits from the board of trustees of the city of Anaheim, the city council of the city of Los Angeles, the board of supervisors of the county of Orange and the board of supervisors of the county of Los Angeles as provided by section 3 of chapter 213, laws of 1917; and provided, further, that the rights and privileges herein granted shall not be assigned or transferred unless the written consent of the Railroad Commission to such assignment or transfer has first been secured.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the state of California.

Dated at San Francisco, California, this third day of October, 1917.

## DECISION No. 4700.

PEARSON J. WELLS AND HUBBARD F. BANNARD

vs.

SOUTH COAST IMPROVEMENT COMPANY.

Case No. 1126.

*Decided October 3, 1917.*

A real estate development company which constructs and operates a water plant for the purpose of developing real estate sales can not transfer or mortgage its real estate and utility without first securing the permission of this commission to such transaction.

Defendant required to proceed with repairs and improvements to its water system and to file plans therefor within fifteen days, such plans to provide for a continuous supply of water at a pressure in its mains at all times and at all points of not less than fifteen pounds per square inch.

*Pearson J. Wells and Hubbard F. Bannard, in propria persona.  
Manning, Thompson & Hoover, by Mr. Goldberg, for Defendant.*

BY THE COMMISSION.

## OPINION.

The complaint in this case alleges that defendant, engaged in operating a water utility at Sunset Beach in Orange County, has failed to maintain reasonable service or to keep its water system in proper repair, resulting in serious inconvenience to the residents of that community.

A public hearing in this matter was held before Examiner Encell on August 14, 1917, in Los Angeles.

The evidence shows that Sunset Beach was promoted in 1905 by Sunset Land and Water Company. In 1912 that company turned over to South Coast Improvement Company the unsold lots in the tract and without the authorization of this commission sold the water system connected therewith. On April 13, 1913, a mortgage covering this real estate and utility was made by the same parties. The authority of the commission to make this mortgage was not sought.

The Public Utilities Act requires the authorization of this commission as a condition precedent to the making of a valid sale or encumbrance of utility property. There is no question but that the title to the property has not been divested but remains in the Sunset Beach Land and Water Company. Neither the defendant nor the Sunset Beach Land and Water Company have, however, sought to evade the provisions of the law but were not advised that such authorization was required. We assume that they will at once seek the authority necessary to consummate the intended sale and mortgage. The defendant herein, however, is actually engaged in the operation of this utility property and is sub-

jeet to the jurisdiction of the commission. The order herein will then be directed to them.

In order to make the lots in Sunset Beach salable a water system was constructed. It consisted of a centrifugal pump drawing from two artesian wells, a 20,000-gallon storage tank and a transmission main of 4-inch spiral riveted pipe, leading into the town. Along Ocean avenue there are 2-inch pipe laterals. This water system worked satisfactorily until 1916 when the 26-foot tower supporting the tank collapsed and the tank was wrecked. A 7,000-gallon tank was thereafter erected at the ground level instead of replacing the 20,000-gallon tank. Early in August, 1917, the centrifugal pump broke down and a shortage resulted for a week or more, which shortage occasioned this complaint being filed. A tank wagon supplied temporary service to the consumers.

Defendant admitted intermittent service had been rendered but alleged that the recent installation of an auxiliary engine will quiet immediate complaints. Mr. J. A. Armitage, manager of the water system, testified that experts who had recently examined the pumping plant had made recommendations which, if possible to finance, will remedy all causes of complaint.

Defendant claims that the annual water charge of \$12.00 is insufficient to pay even the operating expenses involved in rendering the service which they and the true owners have held themselves out to give to the purchasers of lots in their subdivision. Inasmuch as this utility has conducted its affairs for four years without filing a schedule of rates or an annual report, we can not be expected to be very well acquainted even in an informal manner with their needs and conditions.

They are, however, obligated to give the public service worthy of the name and not to permit an admittedly intolerable condition to continue. Pending an adjustment of rates wherein and whereby sufficient revenues can be provided to meet maintenance and operating expenses, we suggest that the promoters of Sunset Beach, namely the stockholders of Sunset Land and Water Company and South Coast Improvement Company, advance sufficient funds to discharge the moral obligation of their land company to the people who, upon their importuning, settled at Sunset Beach. The legal obligation of the real and fictitious owners of this utility to render adequate service to the public in that community is established and must be fulfilled.

There are four two-story houses in Sunset Beach which complainants allege can not be served satisfactorily with water under existing conditions. The present tank is about 40 feet in elevation above the street level in Sunset Beach but the friction in 400 feet of small transmission pipe cuts down the head available in town. There is no doubt that a

tower under the tank is desirable in order to afford greater pressure in town.

The necessary improvements as estimated by defendant will cost about \$1,000.00.

**ORDER.**

Pearson J. Wells and Hubbard F. Bannard, having brought complaint against South Coast Improvement Company, and a hearing having been held, and being fully apprised in the premises, it is hereby found as a fact that defendant company has failed to provide adequate service to its consumers and that to do so requires the installation of improved facilities for service to consumers. Basing its order on the foregoing findings of fact and on the further findings of fact contained in the opinion preceding this order,

*It is hereby ordered* that South Coast Improvement Company proceed immediately to repair its pumping plant and distribution system in such manner as is suggested in the opinion preceding this order, or in such other manner as may be found effective, and take such other steps as may be necessary to provide water continuously at a pressure in its mains at all times and at all points of not less than fifteen pounds per square inch.

*It is further ordered* that defendant company within fifteen days from date hereof file with this commission a statement setting forth their plans for betterment of the system and that should the commission interpose no objection, the defendant then proceed with the work outlined, reporting progress monthly, and complete the work within four months from the date of this order.

Dated at San Francisco, California, this third day of October, 1917.

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**Decision No. 4701.**

IN THE MATTER OF THE APPLICATION OF THE SOUTHERN SIERRAS POWER COMPANY FOR A CERTIFICATE PERMITTING THE CONSTRUCTION OF ELECTRICAL DISTRIBUTION SYSTEMS IN THE CITY OF BLYTHE AND SURROUNDING TERRITORY, RIVERSIDE COUNTY, CALIFORNIA.

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Application No. 2835.

*Decided October 3, 1917.*

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BY THE COMMISSION.

**SECOND SUPPLEMENTAL ORDER.**

Whereas the Southern Sierras Power Company pursuant to Condition No. 1 of the order in Decision No. 4399, dated June 14, 1917, has filed

with the Railroad Commission a certified copy of Ordinance No. 30 of the city of Blythe, said ordinance authorizing the power company to construct and operate an electric system in the city of Blythe; and

Whereas the Southern Sierras Power Company has filed with the Railroad Commission a stipulation duly authorized by its board of directors, in form satisfactory to the Railroad Commission, agreeing for itself, its successors and assigns that it and they will never claim before the Railroad Commission, or any other public authority, any value for said franchise, for rate-making or any other purpose, in excess of the actual cost thereof, which cost is alleged in the stipulation to be the sum of \$68.84; and good cause appearing, the Railroad Commission of the state of California hereby declares that public convenience and necessity require the exercise by the Southern Sierras Power Company of the rights and privileges under a franchise granted it by the city of Blythe, by Ordinance No. 30, dated August 20, 1917.

Dated at San Francisco, California, this third day of October, 1917.

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DECISION No. 4702.

IN THE MATTER OF THE APPLICATION OF FORTUNA WATER COMPANY FOR AN ORDER AUTHORIZING THE ISSUE OF REFUNDING NOTES.

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Application No. 2877.

*Decided October 3, 1917.*

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Permission granted for issuance of note in the sum of \$1,550.00 for a period of not to exceed twelve months, such note to be issued at not less than par for the purposes of retiring a note in a like face value.

*R. R. Smith, for Applicant.*

BY THE COMMISSION.

**OPINION.**

This is an application of Fortuna Water Company of Fortuna, Humboldt County, for authority to issue a 6 per cent note payable to the Bank of Fortuna in the principal sum of \$1,550.00 for a term or terms not exceeding one year.

A hearing in this matter was held before Examiner Encell at Fortuna on September 19, 1917.

From the testimony offered at the hearing it appears that on February 29, 1916, applicant issued a six months 6 per cent note in the principal sum of \$1,550.00 to the Bank of Fortuna and used the proceeds to retire two notes to the same payee, one for \$1,400.00, dated August 31, 1914, and one for \$150.00, dated March 10, 1915.



Thereafter the company issued a renewal note, dated August 29, 1916, in the same amount to the same payee. These notes were issued without obtaining the necessary authority from the Railroad Commission and applicant now desires permission to issue a new note for \$1,550.00 in lieu of the note now outstanding. It appears from the testimony that the proceeds from the two notes for \$1,400.00 and \$150.00, respectively, were used for capital expenditures and that applicant had no intention of violating the terms of the Public Utilities Act when the renewal notes were issued.

Applicant's only indebtedness according to a financial statement filed with the application and dated April 1, 1917, consists of accounts payable amounting to \$314.12.

Under the circumstances it appears that this application may be granted subject to the terms of the following order:

**ORDER.**

Fortuna Water Company having applied to this commission for authority to issue a 6 per cent note payable to the Bank of Fortuna, in the principal sum of \$1,550.00, for a term or terms not exceeding one year, and a public hearing having been held and it appearing that the money to be procured by such issue is reasonably required for the purposes specified in the order, which purposes are not reasonably chargeable in whole or in part to operating expenses or to income,

*It is hereby ordered* that Fortuna Water Company be and it is hereby authorized to issue a promissory note in the principal sum of \$1,550.00, payable not to exceed twelve months after date to Bank of Fortuna, Fortuna, Humboldt County, said note to bear interest at not to exceed 6 per cent per annum.

This authority is granted upon the following conditions and not otherwise:

1. The proceeds from the note herein authorized to be issued shall be used for the sole purpose of retiring and canceling a note in like amount, payable to the Bank of Fortuna, heretofore issued without authority from this commission.

2. If applicant so desires it may renew the note herein authorized by the issue of another note or notes provided that the combined terms of the original note and the renewal note or notes is not in excess of twelve months.

3. Within thirty days after the issue of any note under the authority of this decision, applicant shall make report of such fact to this commission.

4. The authority herein granted Fortuna Water Company to issue a note is conditioned upon the payment of the fee prescribed by the Public Utilities Act.

5. The authority herein granted Fortuna Water Company to issue a note shall apply only to such note or notes as shall have been issued on or before September 1, 1918.

Dated at San Francisco, California, this third day of October, 1917.

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DECISION No. 4703.

IN THE MATTER OF THE APPLICATION OF THE SUBURBAN WATER COMPANY FOR AN ORDER AUTHORIZING DISCONTINUANCE OF WATER SERVICE.

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Application No. 2690.

*Decided October 3, 1917.*

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*G. B. Benham*, for Applicant.

BY THE COMMISSION.

**OPINION.**

This is an application of Suburban Water Company, a corporation, for an order authorizing the discontinuance by said corporation of its water service to certain consumers in the city and county of San Francisco and at Daly City, California.

This matter came on regularly for hearing before Examiner Encell in San Francisco, January 22, 1917.

At that hearing no evidence was offered by applicant upon which an order could be made granting the application. The hearing was then adjourned to a date which was later to be determined for the purpose of allowing applicant to make a satisfactory showing. Since the adjournment of that hearing, counsel for applicant has expressed a willingness to have the application dismissed, there being no desire on the part of the applicant to pursue the matter further. The request will be granted.

**ORDER.**

Application having been made by Suburban Water Company, a corporation, for authority to discontinue water service in the city and county of San Francisco and in San Mateo County, a public hearing having been held thereon and the matter now being ready for decision, for the reasons contained in the foregoing opinion,

*It is hereby ordered* that said application be and the same is hereby dismissed.

Dated at San Francisco, California, this third day of October, 1917.

## DECISION No. 4704.

IN THE MATTER OF THE APPLICATION OF FLOYD BROWN ASKING  
PERMISSION TO INSTALL AND OPERATE AN ELECTRIC LIGHT  
AND POWER PLANT IN AND ABOUT THE CITY OF BLYTHE,  
CALIFORNIA.

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Application No. 2817.

*Decided October 3, 1917.*

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*James O. Phillips*, for Applicant.

BY THE COMMISSION.

**OPINION.**

This is an application of Floyd Brown for permission to install and operate an electric light plant in Blythe, Riverside County, and vicinity. Mr. Brown obtained a franchise from the county of Riverside to construct and operate the plant over the territory now comprising Blythe and vicinity on April 21, 1915.

At the hearing on Application No. 2835 before this commission, which is the application of the Southern Sierras Power Company for a certificate that public convenience and necessity require the construction of an electric light plant and system to serve the same territory as that contained in the application herein, James O. Phillips, attorney for the applicant herein, stated that it was his client's belief that the Southern Sierras Power Company was better fitted to serve the needs of the city of Blythe than applicant herein.

On the fourteenth day of June, 1917, this commission in its Decision No. 4399, made its order granting the application of the Southern Sierras Power Company for a certificate of public convenience and necessity to serve this territory for the reasons therein contained. Wherefore, applicant's application herein must be denied.

**ORDER.**

Application having been made by Floyd Brown for a certificate of public convenience and necessity to construct an electric light plant and system in the city of Blythe, Riverside County, and vicinity, and a public hearing having been held thereon, and the matter now being ready for decision, for the reasons contained in the foregoing opinion,

*It is hereby ordered* that said application be and the same is hereby denied.

Dated at San Francisco, California, this third day of October, 1917.

## DECISION No. 4705.

IN THE MATTER OF THE APPLICATION OF VENTURA COUNTY RAILWAY COMPANY FOR AN ORDER FOR PERMISSION TO SUSPEND OPERATION OF TRAINS AND CARS FOR THE TRANSPORTATION OF PASSENGERS AND EXPRESS FOR THE PERIOD OF FIVE YEARS OVER THE LINE EXTENDING FROM MAGNOLIA AVENUE, IN OXNARD, TO THE PACIFIC OCEAN AT THE TOWN OF HUENEME, VENTURA COUNTY, CALIFORNIA.

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Application No. 3170.

*Decided October 3, 1917.*

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BY THE COMMISSION.

**ORDER OF DISMISSAL.**

Applicant in the proceeding entitled as above having made written request that the application be dismissed,

*It is hereby ordered* that the same be and it is hereby dismissed, without prejudice.

Dated at San Francisco, California, this third day of October, 1917.

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DECISION No. 4706.

IN THE MATTER OF THE APPLICATION OF GIRVIN WAREHOUSE COMPANY FOR AUTHORITY TO INCREASE RATES FOR THE STORAGE AND TRANSFER OF GRAIN, PRODUCE AND MERCHANDISE AT ITS WAREHOUSE IN STOCKTON.

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Application No. 3188.

*Decided October 3, 1917.*

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Upon a showing that present schedules are noncompensatory, increased schedules of rates established covering the storage and handling of grain, produce and merchandise in connection with the warehouse operated by applicant in the city of Stockton.

*Clary & Louttit*, by *Thomas S. Louttit*, for Applicant.

THELEN, *Commissioner*.

**OPINION.**

Girvin Warehouse Company asks authority from the Railroad Commission to increase certain rates for the storage and transfer of grain, produce and merchandise at its warehouse in the city of Stockton.

A public hearing was held in Stockton on September 18, 1917, at which time this application was submitted. Notice of the hearing was given to each customer of petitioner, and no one appeared in opposition to the granting of the petition.

Petitioner operates a public warehouse in the city of Stockton, adjacent to the Mormon Channel, primarily for the storage of grain and beans. The warehouse is accessible to vessels of limited draft and also by spur track to the railroads of the Southern Pacific Company, The Atchison, Topeka and Santa Fe Railway Company and the Western Pacific Railroad Company.

Petitioner's warehouse is a brick structure 350 by 300 feet and has an estimated storage capacity of approximately 17,000 tons of wheat. At the time of the hearing approximately 5,000 tons of barley, wheat, rye and oats were stored therein.

The warehouse in which petitioner does its business is leased from Mr. R. D. Girvin, the owner, at a rental which is one-half the net profits resulting from the operation of the warehouse.

Petitioner was incorporated under the laws of California on June 14, 1917, and started business shortly thereafter. Petitioner, accordingly, is not in a position to supply a statement of operating revenues and expenses for a sufficient length of time to be of service herein in determining just and reasonable rates.

This property was formerly operated as a warehouse by Malone & Perry. Petitioner was unable to secure any record of their operations. The schedules filed with the Railroad Commission by Malone & Perry show that these warehousemen charged the same rates, rules and regulations as were charged by other public warehousemen in Stockton.

The testimony shows that the increased costs of labor and material which have affected the other public warehousemen in Stockton have likewise affected petitioner.

It was stipulated herein that the testimony in Application No. 3120, California Navigation and Improvement Company, might be considered herein in so far as material. Reference is hereby made to the decision this day being rendered in said Application No. 3120.

I find from the testimony herein that petitioner may reasonably be authorized to charge the same rates as this commission is authorizing California Navigation and Improvement Company to charge.

I submit herewith the following form of order:

#### ORDER.

Girvin Warehouse Company having applied to the Railroad Commission for authority to increase and adjust its warehouse rates applicable in the city of Stockton, and a public hearing having been held, the matter having been submitted, and being now ready for decision, the Railroad Commission hereby finds as a fact that the rates now charged by petitioner for its warehouse service in the city of Stockton are unreasonably low in so far as they differ from the rates herein established, and that the rates herein established are just and reasonable rates.

Basing its order on the foregoing finding of fact and on the other findings which are contained in the opinion which precedes this order,

*It is hereby ordered* that Girvin Warehouse Company be and the same hereby is authorized to publish, file with the Railroad Commission and thereafter collect the following schedule of rates at its warehouse operated in the city of Stockton, to wit:

### Warehouse Charges.

#### GRAIN.

<b>*Storage of grain.</b>	
For 30 days or less	\$0 50 per ton
For 60 days or any fraction over 30 days	75 per ton
Over 60 days, to include May 31, following	1 00 per ton
<b>†Transfer of grain through warehouse.</b>	
Including 10 days storage, unloading from cars or teams, weighing <i>in</i> and loading <i>out</i>	35 per ton
Reweighing, for convenience of owner	10 per ton
<b>Loading box cars.</b>	
When necessary to pile in vertical tiers to a height of more than 7 sacks, additional charge, applicable to entire contents of car	10 per ton
<b>Loading or unloading "gondola" cars.</b>	
Additional charge applicable to entire contents of car	15 per ton
Stenciling sacks	03 per ton
Deliveries in lots less than 2 tons	25 each delivery

\*Includes unloading from cars or teams, weighing *in*, weighing *out*, and loading on cars to a height not to exceed 7 tiers of sacks.

†Upon arrival of grain intended for transfer, prompt notice to that effect must be given indicating whether for shipment by rail or water.

#### BEANS.

<b>*Storage of beans.</b>	
For 30 days, or less	\$0 50 per ton
For 60 days, or any fraction over 30 days	75 per ton
Over 60 days, to include August 31 following	1 00 per ton
<b>†Transfer of beans through warehouse.</b>	
Including 10 days storage while in transit for cleaning	25 per ton
Deliveries, in lots less than 1 ton	25 each delivery
Necessary resacking or repairing sacks of all kinds, when not attributable to warehouseman's neglect, will be charged to the owner of the commodity at the actual cost of labor and material used.	

\*Includes weighing *in*, weighing *out* and loading *out*.

†Upon arrival of beans intended for cleaning while in transit, prompt notice to that effect must be given and further disposition indicated.

#### \*ONIONS AND POTATOES.

<b>†Storage of onions and potatoes.</b>	
For 30 days, or less	\$0 03 per sack
For each month or fractional part thereof, after 30 days	01 per sack
<b>Loading "decked" cars.</b>	
Additional charge	60 per carload
<b>Deliveries in lots less than 1 ton.</b>	
Additional charge	25 each delivery

\*Owing to perishable nature of potatoes and onions, right is reserved to compel removal after 5 days notice.

†Includes weighing *out* and loading on cars (not "decked"), but owner must deliver into warehouse.

**SEEDS, SMALL.**

(Including alfalfa, melilotus, mustard, etc.)

**Storage of seeds.**

For season ----- \$1 50 per ton or fraction  
 Deliveries in lots less than quantities originally stored ---- 25 each delivery

**BAGS, EMPTY, IN BALES.****Storage of bags (in bales of 1,000 each).**

For 30 days ----- 15 per bale  
 For each month after first 30 days ----- 10 per bale  
 Unloading from cars ----- 06 per bale  
**Storage of bags (in bales less than 1,000 each).**  
 For 30 days ----- 10 per bale  
 For each month after first 30 days ----- 07½ per bale  
 Unloading from cars ----- 04 per bale  
 Deliveries of bags in less than bale lots ----- 25 each delivery

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this third day of October, 1917.

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**DECISION No. 4707.**

**IN THE MATTER OF THE APPLICATION OF GLENDALE AND MONT-ROSE RAILWAY FOR CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY TO OPERATE STAGE SERVICE BETWEEN EAGLE ROCK AND PASADENA.**

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Application No. 3198.

*Decided October 3, 1917.*

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Applicant granted a certificate permitting the operation of auto bus service between the cities of Eagle Rock and Pasadena, provided that it shall first secure all necessary permits from the public authorities of the territory through which it proposes to operate.

*W. J. Bohon, for Applicant.*

*LOVELAND, Commissioner.*

**OPINION.**

This is an application on behalf of Glendale and Montrose Railway for a certificate of public convenience and necessity in accordance with the provisions of section 5 of chapter 213 of the 1917 Statutes of the state of California.

A public hearing was held at Los Angeles on September 24, 1917. The matter was duly submitted and is now ready for decision.

The applicant proposes to operate a stage service between the city of Eagle Rock and the city of Pasadena and proposes to use in such service two automobile stages as described below:

One Ford bus, motor No. 1468123, 22 horsepower, seating capacity 10 passengers, state license No. 231274.

One Vim bus, motor No. 25895, car No. 16771, 14 horsepower, seating capacity 12 passengers, state license No. 187486.

Other equipment is to be placed in service if the traffic justifies.

The rates of fare to be charged by the applicant are as follows:

Between—	One way	Round trip
Eagle Rock and Pasadena-----	15 cents 30-ride family com- mutation, good 90 days from date of sale, \$3.00.	25 cents 46-ride school ticket, good during calen- dar month for which sold, \$3.50.

Rules and regulations regarding time limit on one-way, round-trip, children's half-fare, family and school commutation rates; stop-over privileges; baggage allowance and redemption of tickets to be in accordance with Exhibit "A" attached to the application in this proceeding.

The time schedule under which auto stages are to be operated between Eagle Rock and Pasadena is as follows:

	a.m.	a.m.	a.m.	a.m.	p.m.	p.m.	p.m.	p.m.	p.m.	p.m.	p.m.	p.m.	p.m.	p.m.
Lv. Eagle Rock	6.30	7.30	8.30	9.30	1.30	2.30	3.30	4.30	5.30	6.30	7.30	8.30	9.30	10.00
Ar. Pasadena	6.50	7.50	8.50	9.50	1.50	2.50	3.50	4.50	5.50	6.50	7.50	8.50	9.50	10.20
Lv. Pasadena	7.00	8.00	9.00	10.00	2.00	3.00	4.00	5.00	6.00	7.00	8.00	9.00	9.30	11.00
Ar. Eagle Rock	7.20	8.20	9.20	10.20	2.20	3.20	4.20	5.20	6.20	7.20	8.20	9.20	9.50	11.20

For a statement of the leading provisions of the act of May 10, 1917, and of the principles to be applied in applications of this character, reference is hereby made to Decision No. 4674 in Application No. 3159—Santa Clara Valley Auto Line—as approved September 26, 1917.

The applicant began service on the proposed route on July 1, 1917, and now desires that a certificate of public convenience and necessity be granted that the operation may be continued in accordance with the requirements of the existing law. During the month of July applicant handled 792 passengers from Eagle Rock and 741 passengers from Pasadena; during the month of August a total of 795 passengers from Eagle Rock and 790 passengers from Pasadena, a total of 3,118 passengers during the two-months period. At the present time there is no public conveyance other than the stages of the applicant operating between Eagle Rock and Pasadena and unless the public uses the stage line of the applicant it must either hire private conveyances or reach Pasadena via the lines of the Glendale and Montrose Railway to Glendale, thence to and through Los Angeles via Pacific Electric Railway, requiring one hour and ten minutes and an expenditure of thirty-five cents one way and sixty cents round trip as against a schedule of twenty minutes and a one-way fare of fifteen cents and round-trip fare of twenty-five cents as proposed by the applicant.



No permits have yet been secured by the applicant from the board of trustees of the town of Eagle Rock, the city commission of the city of Pasadena and the board of supervisors of Los Angeles County as required by section 3 of chapter 213 of the 1917 Statutes of the state of California.

The proposed service will furnish a satisfactory and convenient route between the cities of Eagle Rock and Pasadena, and I find as a fact that public convenience and necessity require its establishment, on the conditions specified in the order.

I recommend the following form of order:

**ORDER.**

Glendale and Montrose Railway, a corporation, having filed a petition asking that the Railroad Commission make its order declaring that public convenience and necessity require the operation of an automobile stage line as a common carrier of passengers and express packages between Eagle Rock and Pasadena, a public hearing having been held, the matter having been submitted and being now ready for decision, the Railroad Commission hereby finds as a fact that public convenience and necessity require the operation by Glendale and Montrose Railway of an automobile stage line as a common carrier of passengers and express packages between Eagle Rock and Pasadena, on the conditions herein-after specified.

Basing its order on the foregoing finding of fact and on the other findings of fact contained in the opinion which precedes this order,

The Railroad Commission hereby declares that public convenience and necessity require the operation by Glendale and Montrose Railway of an automobile stage line as a common carrier of passengers and express packages between Eagle Rock and Pasadena, provided that this declaration shall not become effective until said Glendale and Montrose Railway have secured from the Railroad Commission a supplemental order herein reciting that it has filed herein certified copies of permits from the board of supervisors of the county of Los Angeles, the board of trustees of the town of Eagle Rock, and the city commission of the city of Pasadena as provided by section 3 of chapter 213, laws of 1917; and provided, further, that the rights and privileges herein granted shall not be assigned or transferred unless the written consent of the Railroad Commission to such assignment or transfer has first been secured.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the state of California.

Dated at San Francisco, California, this third day of October, 1917.

## DECISION No. 4708.

IN THE MATTER OF THE APPLICATION OF THE COUNTY OF SAN BERNARDINO FOR PERMISSION TO CONSTRUCT CROSSINGS ACROSS THE TRACKS OF THE ATCHISON, TOPEKA AND SANTA FE RAILWAY COMPANY AT AL REY SIDING AND NEAR THE STATION KNOWN AS GISH.

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Application No. 1764.

*Decided October 3, 1917.*

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Modifying original order so as to provide that the sum of \$1,676.75, being the cost of installing an automatic flagman at one of several crossings constructed by the county shall be borne share and share alike by the county and the railroad company.

*J. L. Campbell*, for Applicant.

*M. W. Reed*, for The Atchison, Topeka and Santa Fe Railway Company.

GORDON, *Commissioner*.

**FIRST SUPPLEMENTAL OPINION.**

A supplemental application, filed by the county in this matter on July 20, 1917, asked the commission to modify its original order in this application, as far as that order required the expense of the installation of automatic flagmen at the two crossings opened to be borne by the county.

It appears that at the first hearing applicant secured the idea that these installations could be made for about \$500.00 each. After they had been installed by the Santa Fe this company rendered the county two bills, one for \$1,090.12 covering the crossing at Gish, and one for \$1,676.75 for the crossing at Al Rey. It was to secure a different apportionment of this expense that the supplemental application was filed.

The county paid the bill for \$1,090.12 covering the first installation but it refused to pay the second bill, pending a decision by the commission. At the hearing it was suggested that a fair way of clearing up the misunderstanding would be for each party to stand half of the second bill, or \$838.38 each, and inasmuch as this appears to me to be fair, I shall recommend that the original order be modified to require it.

**FIRST SUPPLEMENTAL ORDER.**

San Bernardino County, California, having made a supplemental application to the commission, as explained in the foregoing opinion, and it appearing that The Atchison, Topeka and Santa Fe Railway Company should bear a portion of the cost of the installation of the automatic flagmen,

*It is hereby ordered* that The Atchison, Topeka and Santa Fe Railway Company contribute the sum of \$838.38 toward the expense of the installation of these two automatic flagmen.

*It is hereby further ordered* that all other provisions in this order be and the same hereby are in full force and effect.

Dated at San Francisco, California, this third day of October, 1917.

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DECISION No. 4709.

IN THE MATTER OF THE APPLICATION OF PACIFIC ELECTRIC RAILWAY COMPANY FOR AUTHORITY TO ABANDON AND REMOVE ITS RAILROAD ON THE RIGHT OF WAY FROM THE JUNCTION OF THE OCEAN AVENUE LINE WITH THE BROADWAY LINE AT MIRAMAR AVENUE NORTH TO TWENTIETH PLACE IN SAID CITY OF LONG BEACH.

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Application No. 1541.

*Decided October 3, 1917.*

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*Geo. Hoodenpyle*, for city of Long Beach.

*Frank Karr*, for Pacific Electric Railway Company.

GORDON, *Commissioner*.

**FIRST SUPPLEMENTAL ORDER.**

In its original order in this matter the commission granted the applicant permission to abandon the line which it asked permission to abandon, except a portion about thirty-six hundred feet in length located on private right of way from the junction of the Ocean avenue line with the Broadway line at Miramar avenue north to Twentieth place. Regarding this portion of the line the commission said in its order the following:

“The Pacific Electric shall maintain, until a further order of this commission, a single track line from the junction of the Ocean avenue line with the Broadway line at Miramar avenue north to Twentieth place, and shall operate over this line sufficient car service to keep clear its title to its private right of way.”

In the opinion it further said that the Pacific Electric could, if it desired, make further application for permission to abandon its service, after some time had been given the city to acquire the property on which the tracks were located, as it was for that reason that permission to abandon this line was withheld in the first instance.

In the supplemental application herein considered applicant asks that permission. In the two years the line has been in operation since the first order was made effective it has had no receipts whatever. The city officials feel that they will be able to acquire the property mentioned above, and as they have no objection to the supplemental application being granted, I recommend the following form of order:

**FIRST SUPPLEMENTAL ORDER.**

Pacific Electric Railway Company having applied to the commission for permission to abandon its line of railroad from the junction of the Ocean avenue line with the Broadway line at Miramar avenue, north to Twentieth place, in the city of Long Beach; and it appearing that this application should be granted,

*It is hereby ordered* that applicant be and the same hereby is permitted to abandon said line of railroad, in accordance with its application.

Dated at San Francisco, California, this third day of October, 1917.

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DECISION No. 4710.

CITY OF LONG BEACH

*vs.*

SAN PEDRO, LOS ANGELES AND SALT LAKE RAILROAD COMPANY  
ET AL.

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Case No. 784.

*Decided October 3, 1917.*

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BY THE COMMISSION.

**ORDER OF DISMISSAL.**

Complainant having on September 27, 1917, made written request for a dismissal of the complaint in this proceeding without prejudice,

*It is hereby ordered* that the complaint in this proceeding be and the same is hereby dismissed without prejudice.

Dated at San Francisco, California, this third day of October, 1917.

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DECISION No. 4711.

IN THE MATTER OF THE APPLICATION OF A. T. SMITH FOR A CERTIFICATE THAT THE PRESENT PUBLIC CONVENIENCE AND NECESSITY REQUIRE THE LAYING OPERATION AND MAINTENANCE OF WATER PIPES AND HYDRANTS AND NECESSARY APPARATUS AND APPLIANCES UNDER AND UPON THE STREETS, ROADS AND HIGHWAYS IN THE UNINCORPORATED TOWN OF KEELER, IN THE COUNTY OF INYO, STATE OF CALIFORNIA.

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Application No. 3226.

*Decided October 3, 1917.*

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BY THE COMMISSION.

**ORDER.**

A. T. Smith having applied to this commission for a certificate declaring that public convenience and necessity require the exercise of the rights and privileges granted to him by the board of supervisors of Inyo

County, in Ordinance No. 157, adopted on June 6, 1917, whereby said A. T. Smith is given the right to operate a water system in the unincorporated town of Keeler; and it appearing to the commission that this is not a case in which a public hearing is necessary, and that the application should be granted,

*It is hereby declared* that public convenience and necessity require the exercise of the rights and privileges granted to A. T. Smith by the board of supervisors of the county of Inyo, in Ordinance No. 157; provided, that this order shall not become effective until applicant shall have received from this commission a supplemental order stating that a stipulation, satisfactory in form to the Railroad Commission, has been filed therewith, reciting that neither A. T. Smith, his successors nor assigns, shall ever claim before the Railroad Commission or any other public body a value for said franchise in excess of the actual cost thereof, which cost shall be stated in the stipulation.

Dated at San Francisco, California, this third day of October, 1917.

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DECISION No. 4712.

IN THE MATTER OF THE APPLICATION OF A. T. SMITH FOR APPROVAL OF HIS PROPOSED RULES AND REGULATIONS AND SCHEDULES OF CHARGES.

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Application No. 3227.

*Decided October 3, 1917.*

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BY THE COMMISSION.

ORDER OF DISMISSAL.

It appearing that the subject matter of this application is not properly one to be presented formally to the Railroad Commission,

*It is hereby ordered* that the application herein be and the same hereby is dismissed.

Dated at San Francisco, California, this third day of October, 1917.

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DECISION No. 4713.

IN THE MATTER OF THE APPLICATION OF BLUE STAR AUTO STAGE SERVICE, S. P. BLUMENBERG, PROPRIETOR, FOR CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY TO OPERATE STAGE OR TRUCK SERVICE BETWEEN OAKLAND AND WALNUT CREEK, DANVILLE AND INTERMEDIATE POINTS.

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Application No. 3083.

*Decided October 3, 1917.*

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Applicant applies for a certificate permitting the operation of auto bus service between the towns of Oakland, Walnut Creek, Danville and intermediate points, and

investigation showing that there is no public necessity for such service in addition to the electric railway service at present given the above-named points, application dismissed.

*S. P. Blumenberg, in propria persona.*

*Jesse H. Steinhart, for Oakland, Antioch and Eastern Railway,  
Protestant.*

GORDON, *Commissioner.*

#### OPINION.

This is an application on behalf of S. P. Blumenberg, proprietor of the Blue Star Auto Stage Service, for a certificate of public convenience and necessity permitting the operation of an auto stage line between Oakland and Walnut Creek, via Hayward, south entrance Castro Valley, Dublin, San Ramon, Danville and Alamo.

A public hearing was held at Walnut Creek on August 20, 1917, evidence was presented by the applicant and protestants, the matter was duly submitted and is now ready for decision.

At the hearing of this case the applicant stated that residents of Walnut Creek and adjoining communities had expressed a desire for the establishment of service as contemplated over the route for which a certificate of public convenience and necessity is requested. It developed that the route specified in the application was not the one desired and the application was amended over a route leaving Oakland via the so-called Tunnel road, thence through Contra Costa County and the unincorporated town of Lafayette, thence to Walnut Creek.

No application had been made for permission to operate in the city of Oakland, county of Alameda, county of Contra Costa or town of Walnut Creek, as required by section 3 of chapter 213 of the statutes of the state of California, as approved May 10, 1917.

There was no evidence presented by the applicant or any witnesses in his behalf indicating that any public necessity exists for the establishment of a stage line over the route as originally appearing in the application or over the alternate route as desired at this hearing.

Communications were received from the Lafayette Improvement Club and the Concord Chamber of Commerce to the effect that the establishment of service as contemplated in this application would be of no permanent benefit nor to the best interests of the respective communities. The Oakland, Antioch and Eastern Railway, as protestant, filed a communication outlining the unanimous action of the Walnut Creek Chamber of Commerce as being opposed to the inauguration of any automobile service between Walnut Creek and Oakland. Witnesses representing the town of Walnut Creek and adjoining communities testified that in their opinion no public necessity existed for the establishment of service as prayed for in the application.

The Oakland, Antioch and Eastern Railway serves the town of Walnut Creek and the community adjacent to its station at Lafayette and the cities of Oakland and San Francisco. A schedule of seven trains each week day and six trains each way on Sundays is operated by the Oakland, Antioch and Eastern Railway, all of which trains stop at the stations of Walnut Creek, Lafayette and Oakland. The commutation fare at present effective is \$7.05 Walnut Creek to Oakland and \$8.95 Walnut Creek to San Francisco, such commutation ticket allowing purchaser one round trip each day during the month; the average rate per trip accruing to the Oakland, Antioch and Eastern Railway Company being 11½ cents Walnut Creek to Oakland and 10 cents Walnut Creek to San Francisco, or on the basis of 0.6 cents per mile Walnut Creek to Oakland and 0.5 cents per mile Walnut Creek to San Francisco.

The population of Walnut Creek and vicinity as indicated in the great register of Contra Costa County in voting precincts Nos. 1 and 2 is 492. The population of Lafayette as indicated in the index to the great register for the Lafayette Precinct is 161.

In view of the fact that no evidence was introduced at the hearing of this application indicating that there is any desire on the part of the communities for additional transportation facilities such as would be afforded by the auto stage line for which a certificate of public convenience and necessity is requested, and the further fact that such communities, through chambers of commerce, an improvement club and witnesses appearing in protest oppose the establishment of the proposed stage service, I shall recommend that this application be denied. I herewith submit the following form of order:

**ORDER.**

A public hearing having been held in the above-entitled proceeding, the matter having been duly submitted and the commission being fully advised in the premises,

*It is hereby ordered* that this application be and the same hereby is denied.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the state of California.

Dated at San Francisco, California, this third day of October, 1917.

## DECISION No. 4714.

IN THE MATTER OF THE APPLICATION OF HAPPY VALLEY LAND AND WATER COMPANY FOR AN ORDER AUTHORIZING IT TO RENEW A CERTAIN PROMISSORY NOTE.

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Application No. 3225.

*Decided October 3, 1917.*

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Applicant granted permission to issue its two-year note in the sum of \$4,500.00, bearing interest at the rate of 7 per cent per year, such note to be issued in renewal of a note of a like face value.

*Roscoe D. Jones*, for Applicant.

BY THE COMMISSION.

**OPINION.**

In this application, Happy Valley Land and Water Company asks authority to issue a \$4,500.00 note to refund a two-year 7 per cent note of like amount payable to Rideout-Smith National Bank of Oroville. This note was issued pursuant to the Railroad Commission's Decision No. 2692, dated August 14, 1915 (Vol. 7, Opinions and Orders of the Railroad Commission of California, p. 879).

The note which applicant desires to issue is to be payable on or before two years after date, and is to bear interest at the rate of 7 per cent per annum.

In Decision No. 2692, dated August 14, 1915, the commission called attention to the testimony, which shows that the proceeds of the note which applicant now desires to refund were used principally in widening ditches, putting in new steel flume and constructing new extensions.

**ORDER.**

Happy Valley Land and Water Company having applied to the Railroad Commission for authority to issue a promissory note in the sum of \$4,500.00, and a hearing having been held and the commission being of the opinion that the money, property or labor to be procured or paid for by such issue is reasonably required for the purpose specified in the order, and that the purpose for which the note is to be issued is not in whole or in part properly chargeable to operating expenses or to income,

*It is hereby ordered* that Happy Valley Land and Water Company be and it is hereby authorized to issue a promissory note to Rideout-Smith National Bank of Oroville in the principal sum of \$4,500.00 for the purpose of refunding a two-year 7 per cent note of like amount payable on October 9, 1917, said note having been issued pursuant to Decision No. 2692, dated August 14, 1915.

The authority hereby granted to applicant to issue the promissory note is upon the following conditions, and not otherwise:



1. The note hereby authorized to be issued shall bear interest at not to exceed 7 per cent per annum and shall mature not later than two years after the date thereof.

2. Within thirty days after the issue of the note hereby authorized, applicant shall file with the Railroad Commission a statement showing the name of the payee, the face amount of the note, the term of the note and the rate of interest, as well as a statement showing that the note due October 9, 1917, has been canceled.

3. The authority hereby granted applicant to issue a promissory note shall apply only to such note as shall have been issued on or before November 30, 1917.

Dated at San Francisco, California, this third day of October, 1917.

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DECISION No. 4715.

IN THE MATTER OF THE APPLICATION OF THE SOUTHERN COUNTIES GAS COMPANY FOR AUTHORITY TO INCREASE ITS RATES FOR NATURAL GAS SUPPLIED FOR INDUSTRIAL PURPOSES IN ORANGE COUNTY.

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Application No. 3144.

*Decided October 3, 1917.*

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BY THE COMMISSION.

**ORDER OF DISMISSAL.**

Applicant in the above-entitled matter having requested in writing that the said proceeding be dismissed,

*It is hereby ordered* that said proceeding be and the same is hereby dismissed without prejudice.

Dated at San Francisco, California, this third day of October, 1917.

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DECISION No. 4716.

IN THE MATTER OF THE APPLICATION OF CITY WATER COMPANY OF OCEAN PARK TO ISSUE NOTES.

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Application No. 3156.

*Decided October 3, 1917.*

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Applicant authorized to issue its note or notes in the aggregate sum of \$9,000.00 for a period of not to exceed two years, such notes to be sold at not less than par, proceeds to discharge outstanding notes of a like face value.

*G. M. Jones*, for Applicant.

BY THE COMMISSION.

**OPINION.**

In its amended petition in the above-entitled matter, the City Water Company of Ocean Park asks authority to issue its note or notes for the sum of \$9,000.00. The moneys obtained through the issue of its note or notes applicant desires to use to pay a \$1,000.00 note due Olive B. Jones, a \$3,000.00 note due the Ocean Park Bank and a \$5,000.00 note due the First National Bank of Ocean Park.

A public hearing was held at Venice by Examiner Westover.

By Decision No. 4108, dated February 15, 1917, the Railroad Commission authorized the City Water Company of Ocean Park to issue and sell at not less than 98 per cent of their face value \$30,000.00 of its 6 per cent serial bonds. A part of the proceeds obtained from the sale of the bonds were to be used by applicant to pay among others the notes which it now desires to refund.

Applicant reports that it has sold \$15,000.00 of the bonds at par and used the proceeds to reduce its floating indebtedness. It does not desire at this time authority to sell additional bonds, but rather prefers to issue short term notes to refund its existing note indebtedness.

Applicant also asks authority to pledge \$6,000.00 of bonds to secure the payment of \$5,000.00 of the notes which it proposes to issue. G. M. Jones, president of the City Water Company of Ocean Park, has satisfactorily assured the commission that title to the bonds which are to be pledged will not be permitted to pass under the pledge.

**ORDER.**

City Water Company of Ocean Park having applied to the Railroad Commission for authority to issue its note or notes in the sum of \$9,000.00, and a public hearing having been held and the Railroad Commission being of the opinion that the money to be procured by such issue is reasonably required for the purposes specified in the order, and that such purposes are not in whole or in part reasonably chargeable to operating expenses or to income,

*It is hereby ordered* that City Water Company of Ocean Park be and it is hereby granted authority to issue for a term not exceeding two years its note or notes for the sum of \$9,000.00, said note or notes to bear interest at not more than 7 per cent per annum.

*It is hereby further ordered* that City Water Company of Ocean Park be and it is hereby granted authority to pledge \$6,000.00 of its 6 per cent serial bonds to secure the payment of \$5,000.00 of notes hereby authorized to be issued.

The authority hereby granted is granted upon the following conditions and not otherwise:

1. Applicant may, if it so desires, issue notes for a period of less than two years and renew said notes from time to time, provided that the

combined terms of the notes hereby authorized and those issued in renewal, shall not exceed two years.

2. The proceeds of the notes hereby authorized shall be used by applicant to pay its \$1,000.00 6 per cent note due and payable to Olive B. Jones on September 11, 1916; to pay its \$3,000.00 6 per cent note due and payable to Ocean Park Bank on June 11, 1917; and to pay its 5 per cent \$5,000.00 note due and payable to First National Bank of Ocean Park on May 16, 1917.

3. Upon payment of the \$5,000.00 of notes, the payment of which is to be secured by the pledging of \$6,000.00 face value of bonds, the said \$6,000.00 of bonds shall be returned to applicant's treasury and thereafter issued only upon an order of this commission.

4. City Water Company of Ocean Park shall report to the Railroad Commission within ten days after the issue of the respective note or notes hereby authorized the fact and the date of issue, the face value of the note or notes, the rate of interest and the application of the proceeds, all in accordance with this commission's General Order No. 24, which order in so far as applicable, is made a part of this order.

5. The authority hereby granted is conditioned upon the payment of the fee prescribed by the Public Utilities Act.

6. The authority hereby granted shall apply only to such note or notes as may be issued on or before July 1, 1919.

Dated at San Francisco, California, this third day of October, 1917.

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#### DECISION No. 4717.

**IN THE MATTER OF THE APPLICATION OF CALIFORNIA NAVIGATION AND IMPROVEMENT COMPANY FOR AUTHORITY TO INCREASE RATES FOR STORAGE AND TRANSFER OF GRAIN, PRODUCE AND MERCHANDISE AT ITS WAREHOUSES IN STOCKTON.**

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Application No. 3120.

*Decided October 3, 1917.*

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Upon a showing that its present rates are unremunerative, applicant is authorized to put into effect an increased schedule of rates covering the storage and handling of grain, produce and merchandise at its warehouses in the city of Stockton.

*Sanborn & Roehl, by H. H. Sanborn, for Applicant.*

THELEN, *Commissioner.*

#### OPINION.

California Navigation and Improvement Company asks authority from the Railroad Commission to increase certain rates for the storage and transfer of grain, produce and merchandise at its two warehouses in the city of Stockton.

A public hearing herein was held in Stockton on September 18, 1917, at which time this application was submitted. Notice of the hearing was given to each customer of petitioner, but no one appeared in opposition to the granting of the petition.

Petitioner operates two public warehouses in the city of Stockton, primarily for the storage of grain and beans. Potatoes, onions and bags are also stored in limited quantities.

These warehouses are favorably located on tidewater near the head of Stockton Channel, and are served by a double spur track of Southern Pacific Company, over which track access to the warehouses may also be had by The Atchison, Topeka and Santa Fe Railway Company and The Western Pacific Railroad Company.

Warehouse No. 1, with floor space measuring 300 by 160 feet, was constructed more than twenty-five years ago, and No. 2, measuring 300 by 150 feet, was built about fifteen years ago. The walls of each house are largely of wood covered with sheet and corrugated iron. Their combined capacity is about 28,000 tons of wheat. The property has been devoted to the warehouse business for between forty and fifty years and is one of the largest warehouse properties in Stockton.

Petitioner claims for this property a value of not less than \$100,000.00 for realty, buildings and equipment used and useful in carrying on its business as warehouseman. This estimated value was used as a basis for transferring the property to petitioner some seven or eight years ago. In further justification of this claim, it was pointed out that an assessed valuation of \$69,190.00 has been placed on the property by the city of Stockton. No recent sales of adjacent realty which might show actual present values were known to petitioner's witnesses. The following segregation shows the items making up the \$100,000.00 valuation, as estimated by petitioner:

Realty (water front) .....	\$55,000 00
Buildings .....	40,000 00
Equipment .....	5,000 00
<b>Total .....</b>	<b>\$100,000 00</b>

Petitioner attached to the petition herein a comparative statement of earnings and expenses from its warehouse business in Stockton during the calendar years 1914, 1915 and 1916, a summary whereof follows:

	1916	1915	1914
Storage earnings .....	\$19,525 82	\$14,935 44	\$15,081 42
Operating expenses—labor .....	\$14,140 75	\$11,999 60	\$10,747 72
Expenses and repairs.....	3,241 69	2,089 18	3,199 95
<b>Totals .....</b>	<b>\$17,382 44</b>	<b>\$14,088 78</b>	<b>\$13,949 67</b>
<b>Net operating revenue.....</b>	<b>\$2,143 38</b>	<b>\$846 66</b>	<b>\$1,131 75</b>

Average per year for three years, \$1,373.93.

Petitioner also claims that it should receive an annual allowance of \$2,100.00 to cover depreciation of buildings and equipment.

Petitioner's rates, rules and regulations at present in effect were filed with the Railroad Commission on May 15, 1912, and have been in effect continuously thereafter except that the rate for so-called transit storage of potatoes and onions for 48 hours was slightly reduced by petitioner in November, 1913.

The following table shows in parallel columns the present rate, the proposed rate and the resulting increase as to each of the principal items as to which petitioner asks an increase:

	GRAIN.		
	Rates in cents per ton		
	Present	Proposed	Increases
Storage—2 months -----	50	75	25
Storage—3 months -----	75	100	25
Transferring, ex-car or boat, including 10 days' storage--	15	35	20
Transferring, ex-team, if notice be given within 3 days--	25	35	10
BAGS, EMPTY.			
(In bales containing 1,000 bags each.)			
Storage—1 month -----	10	15	05

Petitioner also desires to make certain segregations in the service previously covered by blanket rates under the general term "storage" and to establish separate rates based upon the estimated cost of service, for such segregated items, such as reweighing, loading box cars to full visible capacity, delivery of commodities in less than one or two ton lots, loading or unloading "gondola" cars, stenciling bags and loading "decked" cars. The rates on wool and on ten days' transit storage of potatoes and onions are to be canceled for the reason that no business of this kind has been offered for several years. Petitioner also asked authority to establish rates for special services in connection with call board business but withdrew this request at the hearing for the reason that it does not now perform such service and does not expect to do so.

Petitioner bases its request for increased rates on the increased cost of material and labor, particularly the latter. The testimony shows that within the last six months the wages of warehouse laborers have been increased from 30 cents to 40 cents per hour, an increase of 33½ per cent. The cost of this labor represents more than 80 per cent of petitioner's operating expenses. The testimony shows that the increase in the item of labor alone will be considerably greater than the additional revenue which will be derived by petitioner from the entire readjustment of rates asked for, including both the increases for storage and the new rates designed to cover the actual cost of special services,

hereinbefore referred to and heretofore included in the general storage rates. The testimony shows that the cost of materials used by petitioner in its warehouse business has increased from 15 per cent to 100 per cent within the last three years.

The following table shows the increased revenue which petitioner estimates it will secure from the various increased rates herein asked for:

	Increase.
Grain—storage for 2 months—744 tons at \$0.25-----	\$186 00
Grain—storage for 3 months and over—100 tons at \$1.25-----	25 00
Grain—storage for, in transit—492 tons at \$0.10-----	49 20
200 tons at .20-----	40 00
Grain—additional reweighing, in transit—200 tons at \$0.10-----	20 00
Grain—loading cars to full capacity-----	30 00
Grain—loading or unloading "gondolas"-----	25 00
Grain—stenciling bags-----	25 00
Grain—deliveries of lots less than 2 tons-----	125 00
Beans—deliveries of lots less than 1 ton-----	100 00
Onions—storage-----	10 00
Onions—loading cars "decked"-----	25 00
Onions—deliveries of lots less than 1 ton-----	25 00
Potatoes—storage-----	30 00
Seeds—storage-----	30 00
Bags—storage-----	60 00
Total increase-----	\$805 20

The total increased revenue as estimated by petitioner will be less than one-fourth of the estimated increased cost of labor alone. Without any increased cost of labor, the addition of \$805.20 to the net operating revenue of \$2,143.38 for 1916 would result in a return of only 3 per cent on the claimed value of \$100,000.00 of the property, without making any allowance for depreciation reserve.

Certain changes in the language of proposed tariff items were agreed upon at the hearing and will appear in the tariff as set forth in the order herein.

I find as a fact that the rates set forth in the order herein are fully justified and submit the following form of order:

#### ORDER.

California Navigation and Improvement Company having applied to the Railroad Commission for authority to increase and adjust its warehouse rates applicable in the city of Stockton, a public hearing having been held, the matter having been submitted and being now ready for decision, the Railroad Commission hereby finds as a fact that the rates now charged by petitioner for its warehouse service in the city of Stockton are unreasonably low in so far as they differ from the rates herein established and that the rates herein established are just and reasonable rates.

Basing its order on the foregoing finding of fact and on the other findings which are contained in the opinion which precedes this order,

*It is hereby ordered* that California Navigation and Improvement Company be and the same hereby is authorized to publish, file with the Railroad Commission, and thereafter collect the following schedule of rates at its warehouses operated in the city of Stockton, to wit:

### Warehouse Charges.

#### GRAIN.

**\*Storage of grain.**

For 30 days or less-----	\$0 50 per ton
For 60 days or any fraction over 30 days-----	75 per ton
Over 60 days, to include May 31, following-----	1 00 per ton

**†Transfer of grain through warehouse.**

Including 10 days storage unloading from cars or teams, weighing <i>in</i> and loading <i>out</i> -----	35 per ton
Reweighing, for convenience of owner-----	10 per ton

**Loading box cars.**

When necessary to pile in vertical tiers to a height of more than 7 sacks, additional charge, applicable to entire contents of car-----	10 per ton
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**Loading or unloading "gondola" cars.**

Additional charge applicable to entire contents of car-----	15 per ton
Stenciling sacks-----	03 per ton

Deliveries in lots less than 2 tons-----	25 each delivery
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\*Includes unloading from cars or teams, weighing *in*, weighing *out*, and loading on cars to a height not to exceed 7 tiers of sacks.

†Upon arrival of grain intended for transfer, prompt notice to that effect must be given indicating whether for shipment by rail or water.

#### BEANS.

**\*Storage of beans.**

For 30 days, or less-----	\$0 50 per ton
For 60 days, or any fraction over 30 days-----	75 per ton
Over 60 days, to include August 31, following-----	1 00 per ton

**†Transfer of beans through warehouse.**

Including 10 days storage while in transit for cleaning-----	25 per ton
Deliveries, in lots less than 1 ton-----	25 each delivery

Necessary resacking or repairing sacks of all kinds, when not attributable to warehouseman's neglect, will be charged to the owner of the commodity at the actual cost of labor and material used.

\*Includes weighing *in*, weighing *out* and loading *out*.

†Upon arrival of beans intended for cleaning while in transit, prompt notice to that effect must be given and further disposition indicated.

#### \*ONIONS AND POTATOES.

**†Storage of onions and potatoes.**

For 30 days, or less-----	\$0 03 per sack
For each month or fractional part thereof, after 30 days-----	01 per sack
Loading "decked" cars.	
Additional charge-----	60 per carload
Deliveries in lots less than 1 ton-----	25 each delivery

\*Owing to perishable nature of potatoes and onions, right is reserved to compel removal after 5 days notice.

†Includes weighing *out* and loading on cars (not "decked"), but owner must deliver into warehouse.

## SEEDS, SMALL.

(Including alfalfa, melilotus, mustard, etc.)

## Storage of seeds.

For season .....	\$1 50 per ton or fraction
Deliveries in lots less than quantities originally stored.....	25 each delivery

## BAGS, EMPTY, IN BALES.

## Storage of bags (in bales of 1,000 each).

For 30 days.....	15 per bale
For each month after first 30 days.....	10 per bale
Unloading from cars.....	06 per bale

## Storage of bags (in bales less than 1,000 each).

For 30 days.....	10 per bale
For each month after first 30 days.....	07½ per bale
Unloading from cars.....	04 per bale
Deliveries of bags in less than bale lots.....	25 each delivery

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of California.

Dated at San Francisco, California, this third day of October, 1917.

## DECISION No. 4718.

IN THE MATTER OF THE APPLICATION OF LOS ANGELES AND SALT LAKE RAILROAD COMPANY AND WILLIAM G. HENSHAW FOR AUTHORITY FOR THE SAID HENSHAW TO SELL, AND SAID RAILROAD COMPANY TO PURCHASE, ALL THE OUTSTANDING SHARES OF THE CAPITAL STOCK OF RIVERSIDE, RIALTO AND PACIFIC RAILROAD COMPANY AND FOR AUTHORITY PERMITTING LOS ANGELES AND SALT LAKE RAILROAD COMPANY TO ULTIMATELY ACQUIRE TITLE TO THE PROPERTY, RIGHTS AND FRANCHISES OF SAID RIVERSIDE, RIALTO AND PACIFIC RAILROAD COMPANY.

## Application No. 3070.

*Decided October 5, 1917.*

The commission, in requiring a purchasing company to render as good service as was heretofore rendered over the lines of the company purchased, does not intend that such purchaser shall render service equal to that given by two companies through operating agreements after such agreements have expired, but merely that the purchasing company shall hereafter render as good service as could have been given by the company purchased. Original order amended accordingly.

Salt Lake Railroad Company authorized to enter upon its capital accounts as the cost of the properties purchased, including rights, franchises and physical properties of every kind, the sum of \$465,000.00.

*A. S. Halsted*, for Los Angeles and Salt Lake Railroad Company.

*C. L. McFarland*, for W. G. Henshaw and Riverside, Rialto and Pacific Railroad Company.

*Frank Karr*, for Pacific Electric Railway Company.

*C. Van Zwalenburg*, for Riverside Chamber of Commerce.



GORDON, *Commissioner*.

**FIRST SUPPLEMENTAL OPINION.**

The commission in its Decision No. 4598, rendered on August 29, 1917, granted authority to the Los Angeles and Salt Lake Railroad Company to purchase from William G. Henshaw \$300,000.00 par value of capital stock of the Riverside, Rialto and Pacific Railroad Company for the sum of \$465,000.00, pursuant to the terms of the agreement attached to the application and marked Exhibit "C," and subject to certain conditions as specified in the commission's order.

On September 4, 1917, the applicants filed a petition for an amended order, asking that the commission modify its order in the following particulars:

*First*—That paragraph 2 of the order be eliminated.

This paragraph reads as follows:

"2. Unless otherwise authorized by the commission, the Los Angeles and Salt Lake Railroad Company, either on its own behalf or through lease agreements, shall maintain as adequate freight and passenger service as is now offered by the Riverside, Rialto and Pacific Railroad Company."

*Second*—That paragraph 4 be amended so as to make the order effective at once.

This paragraph reads:

"4. The authority herein granted shall not become effective until the Railroad Commission shall have approved the form of the book entries to be made by the Salt Lake company, covering the transaction herein authorized to be made."

*Third*—That the order expressly authorize and empower the Los Angeles and Salt Lake Railroad Company to acquire by proper conveyances all the rights, franchises and property of the Riverside, Rialto and Pacific Railroad Company, and to maintain and operate said properties as parts of its railroad system as prayed for in the original application.

A hearing on this supplemental application was held in Riverside on September 26, 1917, and with the additional testimony there introduced the matter is now ready for decision.

Regarding the first modification sought by applicants, namely, that paragraph 2 of the commission's original order be eliminated, Decision No. 4598 makes reference to the operating agreement of March 1, 1915, between the Pacific Electric Railway Company and the Riverside, Rialto and Pacific Railroad Company. Under this agreement the entire passenger business over the Riverside company road is taken care of by the Pacific Electric company, and the latter company is also permitted under certain conditions to operate freight cars over the line of the Riverside company. The agreement, which was approved by the

commission in its Decision No. 2246, dated March 19, 1915, is subject to termination by either party upon six months' written notice any time after two years from the effective date. No such notice of termination has as yet been given by either party to the agreement. The applicants now point out that under the terms of the agreement referred to the Riverside company has no control over the passenger service of the Pacific Electric company, especially in so far as through passenger service between Riverside and Los Angeles is concerned; and that the Riverside company would be physically unable to render the service that is now in effect over its line if the Pacific Electric company should choose to cancel the operating agreement referred to. The Riverside company, upon cancellation of that operating contract, would not at once alone be able to maintain the combined freight and passenger service which is now jointly offered by the Riverside and Pacific Electric companies. It would in that case be incumbent upon the Riverside company to render as good freight and passenger service as it was able to give, and should there be complaint the commission would have the power to make its order specifying what such service should be.

It is pointed out by the applicants that a literal interpretation of paragraph 2 of the commission's order would place an unreasonable burden upon the Los Angeles and Salt Lake Railroad Company, which burden does not now rest upon the Riverside company.

In granting the application it was not the commission's intention to put upon the successor to the Riverside company any obligations not now resting upon this company. It was the intention of the commission to safeguard the public served by the Riverside road in the service they are now enjoying as long as the operating agreement mentioned above made such service possible. And it should be remembered that the operating agreement is still in existence and will remain in force for six months after notice of cancellation has been given.

As stated in the commission's Decision No. 4598, it is not thought necessary in this proceeding to consider questions of division of traffic or rates between the Salt Lake company and other connecting or competing lines; nor is the commission called upon in this proceeding to pass on any operating agreements between companies. Such matters and any question as to what service should be rendered in case the operating agreement is abrogated, can be taken care of by the commission when these problems arise.

I recommend, therefore, that the first supplemental order of the commission provide, in lieu of paragraph 2 of the original order, that during the life of the operating agreement now in force between the Riverside company and the Pacific Electric company, the Salt Lake company shall maintain as adequate freight and passenger service as is now offered by the Riverside company; and that in the matter of

service the Salt Lake company shall in every respect be considered under the same, but not greater, obligations to the public as is the Riverside company.

With reference to paragraph 4 of the commission's original order, it developed that the Salt Lake company agrees to enter upon its capital accounts the sum of \$465,000.00 as the cost of the properties of the Riverside company acquired from William G. Henshaw; and that all items of current assets and liabilities be handled in the usual manner and in accordance with the Interstate Commerce Commission's classification of accounts.

Referring to the third amendment suggested by applicants, namely, that order be made authorizing the Salt Lake company to acquire the physical properties of the Riverside company by proper conveyances, I see no objections to such a procedure after the disposition of the book entries to capital account as suggested above.

I herewith submit the following form of order:

#### **FIRST SUPPLEMENTAL ORDER.**

Los Angeles and Salt Lake Railroad Company and William G. Henshaw, having applied to this commission for a modification of and amendment to the original order in this proceeding as made by the commission in Decision No. 4598; and a public hearing having been held, and it appearing to the commission that the said order should be modified and amended in certain particulars,

*It is hereby ordered* that paragraph 2 of said order be modified and shall now read as follows:

Unless otherwise authorized by the commission, the Los Angeles and Salt Lake Railroad Company, during the life of the operating agreement between the Riverside, Rialto and Pacific Railroad Company and the Pacific Electric Railway Company, shall maintain as adequate freight and passenger service as is now offered by the Riverside, Rialto and Pacific Railroad Company; and that in any event the Los Angeles and Salt Lake Railroad Company, either on its own behalf or through lease agreements, shall render as adequate and efficient freight and passenger service as is warranted by existing conditions.

Paragraph 4 shall be modified and read as follows:

The Los Angeles and Salt Lake Railroad Company shall enter upon its capital accounts as the cost of the property of the Riverside, Rialto and Pacific Railroad Company, acquired from William G. Henshaw, including all the rights, franchises, and physical properties of every kind and character, the sum of \$465,000.00.

Authority is hereby granted to Riverside, Rialto and Pacific Railroad Company to sell, and to the Los Angeles and Salt Lake Railroad Company to acquire, the physical properties, rights, and franchises of said Riverside, Rialto and Pacific Railroad Company by proper conveyances and assignments.

In all other particulars the first order of the commission, Decision No. 4598, shall remain in full force and effect.

The foregoing opinion and order are hereby approved and ordered filed as the first supplemental opinion and first supplemental order of the Railroad Commission of the state of California.

Dated at San Francisco, California, this fifth day of October, 1917.

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Decisions Nos. 4719, 4720, 4721, and 4722, grade crossings; not printed. See end of volume.

DECISION No. 4723.

IN THE MATTER OF THE APPLICATION OF SACRAMENTO GAS COMPANY FOR PERMISSION TO SELL BONDS OF THE PAR VALUE OF FOUR HUNDRED THOUSAND DOLLARS AND TO EXECUTE A MORTGAGE OF ITS PROPERTIES.

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Application No. 1907.

*Decided October 5, 1917.*

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Applicant having been heretofore authorized to issue certain bonds, is now permitted to use the balance of the proceeds thereof, amounting to \$8,416.68, for the purposes of reimbursing its treasury covering capital expenditures made in the construction, extension and improvement of its facilities.

BY THE COMMISSION.

**SECOND SUPPLEMENTAL ORDER.**

Whereas this commission by Decision No. 2898 dated November 13, 1915 (Vol. 8, Opinions and Orders of the Railroad Commission of California, page 405), authorized Sacramento Gas Company to issue and sell \$400,000.00 of first mortgage 6 per cent serial gold bonds at not less than 92½ per cent of their face value for the purpose of retiring its existing issue of \$200,000.00 face value of bonds and its outstanding notes amounting to a total face value of \$101,400.00 and for the further purpose of devoting \$11,130.00 of said proceeds to providing for extensions to its plant; and

Whereas said order further provided that the remaining proceeds from the sale of said bonds amounting to not less than \$57,470.00 should be expended only upon further order of this commission; and

Whereas in a first supplemental order, dated February 24, 1916, Decision No. 3123 (Vol. 9, Opinions and Orders of the Railroad Commission of California, page 249), this commission authorized applicant to reimburse its treasury in the sum of \$8,166.78 and to expend for proposed additions and betterments the sum of \$17,194.58 out of the remaining proceeds from the sale of said bonds; and

Whereas applicant has now applied to this commission for authority to reimburse its treasury out of the remaining proceeds from the sale

of said bonds in the additional sum of \$9,455.62 for expenditures made out of income during the month of December, 1916, and the six months ending June 30, 1917, which expenditures are set forth in a statement filed with the commission on September 14, 1917; and it appearing to this commission that of the expenditures set forth in said exhibit items to the amount of \$8,416.68 are properly chargeable to capital account,

*It is hereby ordered* that Sacramento Gas Company be and it is hereby authorized to reimburse its treasury out of the remaining proceeds from the sale of said \$400,000.00 face value of bonds, in the sum of \$8,416.68 for money expended from income for the acquisition of property and for the construction, extension and improvement of its facilities.

*It is hereby further ordered* that the provisions of this commission's Decision No. 2898, dated November 13, 1915, and such orders as have been issued supplemental thereto shall remain in full force and effect except as modified or amended by this order.

Dated at San Francisco, California, this fifth day of October, 1917.

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DECISION No. 4724.

IN THE MATTER OF THE APPLICATION OF LOS ANGELES GAS AND ELECTRIC CORPORATION, SOUTHERN CALIFORNIA EDISON COMPANY, AND SOUTHERN CALIFORNIA GAS COMPANY FOR REVISION OF RULE 2 OF THE SERVICE RULES OF THE COMMISSION AS ESTABLISHED IN CASE NO. 683, VOL. 8, OPINIONS AND ORDERS OF THE RAILROAD COMMISSION OF CALIFORNIA, PAGE 372.

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Application No. 2996.

*Decided October 5, 1917.*

The requiring of a deposit to guarantee payment of bills for gas or electric service ranging from \$2.50 to \$5.00, based on the number of rooms in a residence, is held to be excessive. Utilities should not be permitted to require a deposit in excess of \$2.50 where the average bill for domestic service is less than \$2.00 per month.

The general rule heretofore established by the commission permitting gas, electric and telephone utilities to require a deposit of \$2.50 to guarantee bills for ordinary domestic service was established as the maximum amount which could be demanded for such purpose and not the minimum amount as interpreted by certain utilities.

In establishing an amount which a utility could demand to guarantee the payment of bills the commission sought to minimize the burden on all consumers due to increase in rates to take care of losses caused by uncollectible bills, the prevention of all losses through uncollectible accounts is practically impossible.

Applicants authorized to file and put into effect the following schedule of amounts to be required as deposits to guarantee bills: Domestic gas or electric service, residence of four active rooms or less, temporary seasonal occupancy, \$2.00, permanent occupancy, \$1.50. Residences, five to seven active rooms, \$2.50, eight or more active rooms, \$5.00.

*Paul Overton*, for Los Angeles Gas and Electric Corporation.

*H. H. Trowbridge* and *Harry J. Bauer*, for Southern California Edison Company.

*A. E. Peat*, for Southern California Gas Company.

LOVELAND, *Commissioner*.

#### OPINION.

Los Angeles Gas and Electric Corporation, Southern California Edison Company and Southern California Gas Company request that the commission allow applicants to require in certain instances deposits in excess of \$2.50 for the guarantee of bills for residence and domestic gas and electric service.

Rule No. 2, referring to service charges for metered service and established by Decision No. 2879, Case 683, Vol. 8, Opinions and Orders of the Railroad Commission of California, page 372, is as follows:

“If an applicant for metered or measured service makes a cash deposit to insure payment for service to be delivered, the amount of the deposit shall be such as may be specified in the utility’s rules, but in no event in excess of twice the average periodic bill of consumers of his class; provided, that the deposit for domestic or residence monthly service of water, gas, electric and telephone utilities shall not exceed \$2.50, except that where the average of the monthly bills of those consumers of any class of domestic or residence service who make deposits is in excess of \$2.00, such consumers may be called upon to make deposits of uniform amount not exceeding twice such average.”

Applicants contend that under this rule as interpreted by the commission they are not permitted to require deposits exceeding \$2.50 to insure payment of bills in case of residence and domestic service; that there are a large number of consumers making cash deposits whose average monthly bills exceed \$2.50, and as a result applicants are not protected in the collection of their bills; that owing to a large percentage of transitory population in the territory served, they have a considerable number of consumers who take service for a few months during the winter and whose bills exceed \$2.50; that the city council of the city of Los Angeles in December, 1911, passed an ordinance permitting the water, gas and electric utilities in the city to require deposits in excess of \$2.50, varying in amount based on the number of rooms in the house, and that if applicants are not permitted to require deposits in excess of \$2.50 to insure payment of bills they will lose large sums through uncollectible bills.

Following the issuance by the commission of Decision No. 2879 referred to above, applicants filed with the commission rules governing deposits as set forth below and which were accepted by the commission

for filing, no approval being given. The ruled filed governing deposits for electric service was:

“If cash deposit is made the following classifications based upon rules of the Railroad Commission of the State of California are effective:

Residences or dwellings of six rooms or less-----	\$2 50
Residences or dwellings of seven or eight rooms-----	4 00
Residences or dwellings of nine or ten rooms-----	5 00

All other classes of consumers to deposit an amount of not more than twice the periodic bill.”

The rule filed governing deposits for gas service was:

“If cash deposit is made the following classifications based upon rules of the Railroad Commission of California are effective:

Residences or dwellings of five rooms or less-----	\$2 50
Residences or dwellings of six or seven rooms-----	4 00
Residences or dwellings of eight or nine rooms-----	5 00

All other classes of consumers to deposit an amount not exceeding twice the average periodic bill.”

Applicants state that these rules were made after an analysis of the bills of consumers and with the understanding on the part of the companies that they were complying with the order of the commission which they interpreted as permitting them to classify their consumers in accordance with the number of rooms in the houses served.

The rules as filed were continued in effect by the utilities for some time until it was noted that the practice of the utilities was not in accordance with a strict interpretation of the order as made by the commission, whereupon applicants were requested to change their rule to comply with the commission's interpretation of its decision, or if they desired a change in the order they were notified to make application to the commission for such change. After considerable informal negotiations in the matter applicants filed corrected rules and regulations and an application for a revision of Rule No. 2 in so far as they were affected.

At the hearing in this application petitioners contended that under Rule No. 2 quoted above and the opinion preceding the order fixing said rule, they had the right to require a maximum deposit for residence and domestic service in excess of \$2.50, and that the commission clearly recognized the justice of the contention made by applicants in their petition for a rehearing in the original Case 683, when, in its order on rehearing, the commission expressly stated that with reference to some utilities or some classes of residence and domestic service a deposit of \$2.50 might not be sufficient, and in the revised rule added:

“Except that where the average of the monthly bills of those consumers of any class of residence or domestic service who make

deposits is in excess of \$2.00, such consumers may be called upon to make deposits of uniform amounts not exceeding twice such average."

From a consideration of the language of the original opinion in Case 683, Decision No. 2689, and the discussion of contentions of applicants for rehearing in regard to Rule No. 2, Decision No. 2879, it is apparent to me that the utilities might be justified in interpreting the order as they did, especially in view of the request made by said petitioners. However, from a careful consideration of the opinion, I must conclude that such an interpretation was erroneous. The opinion upon rehearing consistently refers to class of domestic or residence service and not to classification of consumers. It was apparently intended to cover those cases where the utilities' average residence or domestic service bills exceeded \$2.00 or where, for a certain class of residence or domestic service which include other than electric lighting or domestic gas service, the average bills exceeded the sum of \$2.00 per month. I must conclude, therefore, that under the final order in Case 683 applicants would not be permitted to require deposits in excess of \$2.50 for residence or domestic service where the average bills for that class of service were less than \$2.00.

Petitioners also contend that the deposit of \$2.50 was, under the rule, the minimum deposit to be required. This contention is erroneous. That amount was fixed as the maximum deposit for the average, and if a larger deposit is justified for the larger consumers, a smaller deposit should be required of the smaller consumer.

The questions to be determined in this application are: Whether the conditions existing upon applicants' systems justify a change in the present order by the requiring of deposits for service in excess of \$2.50, and if so, whether the amount of such deposits should be determined on the basis of the number of rooms in a consumer's residence, and if so, what amounts should be required.

The Los Angeles Gas and Electric Corporation submitted evidence showing the average bills for the year 1916 of gas consumers occupying houses of five or less rooms, of six and seven rooms, and eight and nine rooms. In compiling these data applicant stated that consumers from whom deposits were required were taken from the ledgers with no aim of selection and the average bills per consumer were determined for the entire year. The result reported by this company is as follows:

	Average monthly bill.
Houses of five rooms or less.....	\$1 58
Houses of six and seven rooms.....	2 08
Houses of eight and nine rooms.....	3 25

It does not appear that the above figures exemplify the average conditions, as the average of 90 per cent of the bills of the consumers



of that company is about \$1.20—considerably less than the average reported for five rooms or less. A large number of the company's smaller consumers are in apartments, flats and small houses of two to four rooms, and it would appear only fair to these smaller consumers to reduce their deposit if the uniform deposit of \$2.50 is not adhered to.

Southern California Gas Company submitted an exhibit showing the average bills for the month of March, 1917, for several districts where the number of rooms in the houses was fairly definitely known, from which it appears that the average bills for the month of March for cottages and flats of five to seven rooms served by them varied from \$1.37 to \$1.75; that where the number of rooms per house approximated ten, bills averaged in excess of \$4.00. Southern California Gas Company also submitted a statement of the number of accounts of residence or domestic service where deposits were held, to which were applied the deposits during the month of March, 1917, on account of disconnects of service and removal of consumers to addresses unknown to the company. There were 48 of such accounts during that month for which \$132.00 was held as deposits and from which the total bills due amounted to \$205.55. Only seven of the 48 accounts carried deposits in excess of \$2.50. Seventeen of the closing accounts were less than the deposit held, the remainder being more or less in excess of the deposit. In case the credits due consumers on the balance of deposits were all called for and none of the bad debts collected, the company would lose from closing bills during that month \$90.01 as compared with difference between total deposits and closing bills of \$73.55. On this company's system approximately 75 per cent of deposits required were for \$2.50, 17½ per cent for \$4.00 and the remainder \$5.00 or over. A considerably larger percentage of deposits over \$2.50 occurred on the Los Angeles Gas and Electric Corporation's gas system.

Evidence relative to electric bills was submitted by Southern California Edison Company. A report covering a study of deposits and bad debts for domestic service was submitted after the hearing and by stipulation considered in evidence.

An analysis of this report shows, from the consumers considered, that the average of the bills for residence and domestic electric service for houses of four, five and six rooms was \$1.19 per month; average of houses of seven and eight rooms \$1.90; of nine and ten rooms \$2.94 per month.

The profit and loss statement submitted showed, for the six months ending June 30, 1917, that there were 94 deposits of \$2.50 or \$235.00 applied to closing or delinquent bills exceeding \$2.50, amounting to \$456.47. The report does not show the exact number of deposits applied which exceeded the bill due. Apparently, however, about one-half of all

deposits applied are in full, the remainder only in part. Only four deposits of \$4.00 were applied to closing bills amounting to \$23.56 and two of \$5.00 to cover closing bills of \$26.61. Some reduction in this total loss would have resulted if no bills were allowed to run more than two months.

Further data shows that during the four months of January to April, 1917, approximately  $27\frac{1}{2}$  per cent of the total consumers connected during that period were required to make deposits. The company, under its past and proposed rule, would require \$2.50 deposit from  $91\frac{1}{2}$  per cent; \$4.00 deposit from  $4\frac{1}{2}$  per cent; \$5.00 deposits from  $2\frac{3}{4}$  per cent, and deposits of larger amounts from  $1\frac{1}{2}$  per cent of the total deposit makers.

There appears to be a fairly definite relation between the number of rooms per house and the average monthly bill for gas or electric service although there is a very wide variation in the individual bills. The average monthly bills for gas service for five room houses or less vary from 32 cents per month to \$6.00 and for eight and nine rooms from 54 cents to \$15.59. It is apparent, therefore, that any uniform deposit, based on the number of rooms per house, to give complete protection against uncollectible bills would be overburdensome to the majority of consumers as it would practically have to equal twice the maximum bill. The utility must expect a certain amount of loss from consumers making deposits. It is practically and economically impossible to prevent all loss from uncollectible bills. The commission's previous decision held this to be true in concluding that the deposit should not exceed \$2.50 unless the average bills exceeded \$2.00.

The aim in determining the amount of a deposit should be to minimize the burden on consumers making deposits, resulting from the requiring of deposits, commensurate with minimizing the burden on all consumers due to increase of rates to take care of losses caused by uncollectible bills.

The rules as proposed by the applicants would increase deposits above that fixed by the commission's previous decision for about 30 per cent of the gas and 10 per cent of the electric consumers who make deposits, or not to exceed  $7\frac{1}{2}$  per cent of the total domestic gas consumers and 3 per cent of the electric. The saving would be comparatively small.

The determination of deposits based upon the number of rooms per house, if followed to conclusion, should work not only to an increase for large houses but also to a reduction for small houses. Consumers whose bills are 35 cents to 50 cents per month for gas or 65 cents to \$1.00 for electricity should hardly be required to make a \$2.50 deposit to guarantee bills. It is impossible to make each consumer deposit an amount commensurate with his bills.

I believe, under the conditions existing, that if the amount of deposits is to be based upon the number of rooms per house, which basis appears to be fairly reasonable, that the rule proposed by applicants should be changed, and I recommend the following:

**Deposits for Residence and Domestic Gas or Electric Service.**

Applicants for residence and domestic gas or electric service who are required to make cash deposits to guarantee the payment of bills shall make deposits in accordance with the following classifications:

Residences, flats, apartments or dwellings of four active rooms or less—

Temporary seasonal occupancy-----	\$2 00
Permanent occupancy -----	1 50
Residences or dwellings of five, six and seven active rooms-----	2 50
Residences or dwellings of eight or more active rooms-----	5 00

In determining the number of "active rooms," cellars, halls, bathrooms, pantries or porches will not be considered as active.

I recommend the following form of order:

**ORDER.**

Los Angeles Gas and Electric Corporation, Southern California Edison Company and Southern California Gas Company having applied for permission to modify Rule No. 2 as previously established in Case 683, Decision 2879 (Opinions and Orders of the Railroad Commission of the State of California, Vol. 8, page 372), so that they may require deposits in excess of \$2.50 to guarantee payment of bills for residence and domestic service, and a hearing having been held and the matter being submitted and now ready for decision, and it appearing that said utilities should be granted authority to modify said rule as herein set forth,

*It is hereby ordered* that Los Angeles Gas and Electric Corporation, Southern California Edison Company and Southern California Gas Company be and the same are hereby granted permission to establish and put in effect a rule differing from said Rule No. 2 as established in this commission's Decision No. 2879 (Opinions and Orders of the Railroad Commission of the State of California, Vol. 8, page 372), to the extent indicated in the opinion which precedes this order and not otherwise.

Provided, that said modified rule be filed with the Railroad Commission on or before November 1, 1917.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the state of California.

Dated at San Francisco, California, this fifth day of October, 1917.

DECISION No. 4725.  
TOWN OF LARKSPUR  
*vs.*

ANGLO-AMERICAN LAND COMPANY, C. W. WRIGHT ET AL.

Case No. 1102.

*Decided October 6, 1917.*

An agreement having been reached providing for the transfer of the system of defendants to the Marin Municipal Water District, complaint as to rates and service dismissed and defendants directed to transfer their water properties to the water district in accordance with stipulations filed with the commission.

*O. F. Meldon*, city attorney, for town of Larkspur.

*Edgar C. Chapman*, for Anglo-American Land Company, C. W. Wright et al.

*George H. Harlan*, for Marin Municipal Water District.

*THELEN*, *Commissioner*.

**OPINION.**

The town of Larkspur filed herein its complaint alleging that the owners and operators of the Larkspur water system in Marin County are failing to pay Marin Municipal Water District for water sold by the district to the Larkspur water system and sold by the latter to the inhabitants of Larkspur; that Marin Municipal Water District is threatening to discontinue the delivery of water to the Larkspur water system; and that the rates charged by the Larkspur water system are arbitrary and discriminatory. Complainant asks that the Railroad Commission make such order as will insure the continuance of an ample supply of water at reasonable and nondiscriminatory rates.

Public hearings herein were held in San Francisco on July 21 and 23 and August 24, 1917, on which latter date the case was submitted. The testimony at the hearing early showed that the only constructive and satisfactory solution of Larkspur water problem is the transfer of the existing water system to Marin Municipal Water District and its operation by the district. The commission's efforts were thereupon directed to bring about this solution of the problem.

On October 3, 1917, at an informal conference which was held in the office of the Railroad Commission and at which all interested parties were represented, an agreement to this end, satisfactory to all parties, was entered into. Agreement provides that Anglo-American Land Company, C. W. Wright, and C. W. Wright, G. A. M. Wright and G. E. M. Wright as trustees for the stockholders and creditors of American Land and Trust Company, being together the owners of the Larkspur water system, shall convey to Marin Municipal Water District such portion of the water system and rights as the district can reasonably utilize. The district agrees to pay for the property the sum of

\$1,000.00, to be paid in monthly installments of 50 per cent of the gross revenues to be collected by the district monthly from the sale of water from the Larkspur water system.

The parties also agreed that Anglo-American Land Company and C. W. Wright shall convey to the district a certain system of four-inch pipe held under different ownership and located on Willow avenue, Bond street, Sycamore avenue, and Citron avenue, with all service connections, for the sum of \$4,000.00. Request is to be made in the amount of 50 per cent of the gross revenues collected from consumers having direct connection with said four-inch pipe, until the purchase price is paid, provided that the payments shall not continue longer than ten years.

The agreement as entered into has been embodied in a written stipulation signed by all the parties and filed herein on October 4, 1917.

I recommend that the Railroad Commission make its order granting authority to the performance of the acts necessary to make effective the very satisfactory agreement made by the parties hereto and submit herewith the following form of order:

#### ORDER.

Public hearing having been held in the above-entitled proceeding, the same having been submitted, and a written stipulation signed by all the parties and embodying an agreement and settlement of all the issues herein involved having been filed herein,

*It is hereby ordered as follows:*

1. Anglo-American Land Company, C. W. Wright, individually, and C. W. Wright, G. A. M. Wright, and G. E. M. Wright, as trustees for the stockholders and creditors of American Land and Trust Company, owners of the so-called Larkspur water system, are hereby authorized to convey to Marin Municipal Water District for the consideration and on the terms and conditions specified in said stipulation all pipes, pipe lines, service connections, meters, fittings and appurtenances now or heretofore belonging to them or either or any of them and used or operated as a part of or in connection with that certain water plant in the town of Larkspur, county of Marin, state of California, more recently operated under the name of "Larkspur Water Company," including a certain three-inch pipe line on Madrona avenue and Water way in said town, leading to the reservoir immediately outside of the town limits, except the following property, to wit: A certain block of land bounded by Park street, Vine street, Flag street and Acacia avenue, together with a reservoir thereon, and all pipe lines leading to three certain tunnels located west of said town of Larkspur, together with said tunnels and the lands upon which the same are located; and two certain springs in block 8 of the town of Larkspur; and also all wells, pumps, pump houses and machinery connected with

its pumping plant located on King street and in block 15 of said town of Larkspur, which said last-mentioned property is hereby reserved from said proposed transfer.

2. Anglo-American Land Company and C. W. Wright are hereby authorized to convey to Marin Municipal Water District for the consideration and on the terms and conditions specified in said stipulation a certain system of four-inch pipes subsidiary to the above-mentioned system and connected therewith but held under different ownership and located on Willow avenue, Bond street, Sycamore avenue and Citron avenue, together with all service connections leading therefrom.

3. When the properties hereinbefore described have been conveyed to Marin Municipal District by a good and sufficient grant, bargain and sale deed, free and clear of all encumbrances, said Anglo-American Land Company, C. W. Wright individually, and C. W. Wright, G. A. M. Wright and G. E. M. Wright as trustees for the stockholders and creditors of American Land and Trust Company shall be relieved from their public utility obligations to serve water to the public at Larkspur.

4. Within twenty days from the execution and delivery of said grant, bargain and sale deed, said C. W. Wright shall file herein a certified copy thereof.

5. In all other respects, the above-entitled complaint is hereby dismissed.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the state of California.

Dated at San Francisco, California, this sixth day of October, 1917.

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DECISION No. 4726.

U. W. BROWN, JOE LUCENTIS AND I. C. ZUMWALT.

*vs.*

W. F. FOWLER, RECEIVER OF THE SACRAMENTO VALLEY WEST SIDE  
CANAL COMPANY.

Case No. 1117.

N. PETERMAN

*vs.*

W. F. FOWLER, RECEIVER OF THE SACRAMENTO VALLEY WEST SIDE  
CANAL COMPANY.

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Case No. 1118.

*Decided October 6, 1917.*

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A utility can not plead higher wages demanded by its employees as sufficient reason to shut down a dredger which it is operating and permitting crops on the lands which it is irrigating to suffer through lack of proper irrigation.

Defendant required to arrange to acquire the pumping equipment of the Hamilton Sugar Company and all other pumping equipment which is available to it in its district to be used as auxiliaries, also to continue its dredging operations in the Sacramento River and to expedite such work as much as possible. Daily reports required showing the progress of such work.

*Claude F. Purkitt*, for N. Peterman.

*U. W. Brown*, in *propria persona*.

*C. L. Donohoe*, in *propria persona*.

*Frank Freeman*, for W. F. Fowler, Receiver.

BY THE COMMISSION.

#### OPINION.

The allegations in these two complaints are in general the same, and by stipulation when hearing before the commission was opened in Willows on Monday, July 30, 1917, before Examiner Encell, it was agreed that evidence in the one proceeding, so far as relevant, should be considered evidence in the other, and the two were combined for hearing and decision.

In brief, the complaints allege that complainants are raising rice on lands within the district that defendant is under obligation to serve with water for irrigation purposes; that they have regularly made application for such service, have made payments as required by the rules and regulations of defendant and have fulfilled all other conditions, but that, nevertheless, defendant herein has failed and at the time of making complaint was still failing to furnish water in sufficient quantities for the proper irrigation of the rice crop standing and growing on the land being farmed by complainants. The complaints, in each case, give details of location of lands and the particular arrangements, in so far as they differ the one from the other, made by complainants for the irrigation of their crops.

Informal complaints first reached the commission on June 20, 1917. Reports of shortage continued, and the commission suggested to the company that various means be availed of for the temporary relief of complainants. The company chose to install an additional pumping unit which was put into operation on July 17, 1917, and leased the so-called Sellew Pumping Plant delivering water into the River Branch Canal.

It appearing to the commission that an emergency might exist, the hearing herein was set on less than the usual ten days notice. An answer was prepared and presented during the progress of the hearing. This answer denies that the complainants have not been provided with sufficient water for irrigation of their rice crops and alleges in the case of Peterman that water was from time to time wasted and that for that reason the flow to this complainant was gradually decreased until the waste was eliminated.

It was admitted that a shortage of water supply available for use on the system generally had existed but it was denied that there had been any discrimination in the distribution of water. It was further claimed by the defendant that while the amount of water delivered was less than desired by complainants and other irrigators, the deliveries were sufficient for the proper development of crops if the land was properly prepared and the water properly handled.

It appears that the receiver of the Sacramento Valley West Side Canal Company and his employees were unduly optimistic regarding the amount of water that the pumping plant lifting water from the Sacramento River into the canal of the company could produce. It was testified by E. C. Mills, chief engineer of the company, that a test during November, 1916, with four pumps operating seemed to him to prove a capacity of 683 second-feet. During the conduct of proceedings upon the application of the receiver for authority to increase rates, being Application No. 2977, Mr. Mills testified that the pumping plant was then delivering into the canal 659 second-feet. On June 28, 1917, with the water at the same stage, an engineer of the commission found only 500 second-feet flowing.

The estimated acreage was on a basis of crops other than rice and the use of water on rice being at least three times that on other crops as indicated in the decision referred to, lands in rice should be multiplied by three to reach a comparable basis. At this time it is testified 16,600 acres are in rice and 14,000 acres in other crops, or the use of water equivalent to that for the irrigation of 64,000 acres in ordinary crops. It is clear that the receiver of the company has undertaken service to a greater extent than was believed practicable by the advisors of the company two years since.

D. W. Ross, testifying for the company at the time of the hearing in cases 597 and 673, prepared a table showing that he anticipated delivery of water to 55,000 acres in 1920 and 62,000 acres in 1921. He further testified that before this time there should be installed two additional pumps costing \$59,000.00 and the main canal between the river and Stony Creek should be cleared of deposits of silt and unfinished portions completed to grade at a cost of \$65,000. This work has not been done.

The company should avail itself of every practicable means for increasing and safeguarding the water supply made available for use of consumers. At the time of the hearing, the engineer for defendant testified that the dredger which was operating at the point where the water was pumped from the Sacramento River was working but eight hours per day, and gave as its excuse for not working continuously in order to save this large rice crop, that he has been unable to secure labor without paying prohibitive prices for the same. To sacrifice crops



growing over an aggregate of 30,000 acres because the demand is made for a few dollars per day extra in the form of wages can not be accepted by this commission. The dredgers should be kept in continuous operation in our opinion.

The pumping plants of the Hamilton Sugar Company have been and, so far as the testimony shows, are still available for the use of this company. They would develop an additional supply of from 40 to 50 second-feet. Mr. E. C. Mills testified that the expense incurred by the company would be approximately \$3,500.00. The cost of the use of those pumps, when compared with the loss that will be incurred by consumers generally through the shortage of water supply, is merely nominal. The benefit to the consumers of this use of this small auxiliary is so great in comparison to the cost of its installation that we do not hesitate to order the defendant to place the same in operation with greatest expedition. We understand that the receiver will proceed with the rehabilitation of the sugar company's pumping plants and will arrange for their use unless by the time they are ready all consumers are fully supplied with water. The receiver will be ordered to avail himself of the use of these pumps and as well to arrange for the use of any other idle plant of which he may have knowledge.

The commission has been informed that the company has responded to the suggestions hereinabove contained which were made to it at the time of the hearing.

#### ORDER.

Complaint having been filed with this commission by N. Peterman and by U. W. Brown and others, and a public hearing having been held, and the commission being fully apprised in the premises,

*It is hereby ordered* that W. F. Fowler, as receiver of the Sacramento Valley West Side Canal Company, deliver water for the production of rice without discrimination against complainants herein.

*It is further ordered* that the defendant herein, in correction of the existing emergency, proceed as follows:

1. Arrange for the use of the pumping equipment of Hamilton Sugar Company and all other pumping plants existing in the district that can be used by defendant as auxiliaries in the development of water supply for consumers, and that these be immediately put into service should any consumer at any time not receive an adequate and sufficient supply of water.

- (2) Continue the dredging operations in the channel of the Sacramento River and expedite that work as much as defendant finds possible, carrying the same to completion.

- (3) File with this commission a daily report of the action taken by defendant under this portion of the order herein until such time as these requirements are fulfilled.

Dated at San Francisco, California, this sixth day of October, 1917.

Decisions Nos. 4727 and 4728, grade crossings; not printed. See end of volume.

DECISION No. 4729.

IN THE MATTER OF THE APPLICATION OF SAN DIEGO CONSOLIDATED GAS AND ELECTRIC COMPANY FOR AUTHORITY TO ISSUE, SELL AND DISPOSE OF PREFERRED STOCK, BONDS AND NOTES.

Application No. 3071.

*Decided October 8, 1917.*

BY THE COMMISSION.

**FIRST SUPPLEMENTAL ORDER.**

Whereas Condition No. 3 of the order in Decision No. 4629, dated September 8, 1917, provides that San Diego Consolidated Gas and Electric Company may use part of the proceeds from the issue of its preferred stock, bonds and notes authorized by said decision to pay \$229,000.00 of notes, and

“To pay such part of its current and open accounts payable as may represent capital expenditures, provided applicant has first furnished the Railroad Commission with a detailed statement of such accounts and obtained from the Railroad Commission a supplemental order authorizing the payment thereof;”

and

Whereas in Schedule No. 3 attached to the supplemental petition filed on October 4, 1917, applicant reports that its current and open accounts payable, representing capital expenditures, aggregate \$389,327.31, and requests authority to use part of the proceeds from the pledge of its bonds and the sale of its preferred stock and notes to pay said \$389,327.31 indebtedness and good cause appearing,

*It is hereby ordered* that San Diego Consolidated Gas and Electric Company be and it is hereby granted authority to use part of the proceeds of the pledge of bonds, and the sale of preferred stock and notes, authorized by the order in Decision No. 4629, dated September 8, 1917, to pay the accounts payable listed in Schedule No. 3 attached to the supplemental petition filed October 4, 1917.

*It is hereby further ordered* that the order in Decision No. 4629, dated September 8, 1917, shall remain in full force and effect, except as modified by this first supplemental order.

Dated at San Francisco, California, this eighth day of October, 1917.

## DECISION No. 4730.

IN THE MATTER OF THE APPLICATION OF MIDLAND COUNTIES  
PUBLIC SERVICE CORPORATION FOR AN ORDER AUTHORIZING  
THE ISSUE OF BONDS.

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Application No. 2837.

*Decided October 8, 1917.*

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BY THE COMMISSION.

**SECOND SUPPLEMENTAL ORDER.**

Whereas the order in Decision No. 4369, dated June 2, 1917, authorizes applicant in the above-entitled matter to issue and sell \$70,000.00 of bonds at not less than 95 per cent of their face value plus accrued interest and use the proceeds to pay floating indebtedness incurred for proper capital purposes, provided that before issuing any of the \$70,000.00 of bonds, applicant shall have filed with the Railroad Commission a statement of the floating indebtedness which it proposes to pay out of the proceeds of such bonds; and

Whereas applicant in Exhibit A, attached to the supplemental application filed October 5, 1917, reports notes payable representing capital expenditures aggregating \$370,046.69, and requests authority to use the proceeds of the \$70,000.00 of bonds to pay in part said notes; and good cause appearing,

*It is hereby ordered* that Midland Counties Public Service Corporation be and it is hereby granted authority to use the proceeds from the \$70,000.00 of bonds, to which reference is made above, to pay in part the notes listed in Exhibit A attached to the supplemental petition filed October 5, 1917.

*It is hereby further ordered* that the order in Decision No. 4369, dated June 2, 1917, as amended, shall remain in full force and effect except as modified by this second supplemental order.

Dated at San Francisco, California, this eighth day of October, 1917.

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DECISION No. 4731.

IN THE MATTER OF THE APPLICATION OF ECONOMIC GAS COMPANY  
FOR AN ORDER AUTHORIZING THE RENEWAL OF A PROMISSORY  
NOTE OF THIRTY THOUSAND DOLLARS.

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Application No. 3206.

*Decided October 8, 1917.*

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Applicant authorized to issue its promissory note in the sum of **\$30,000.00**, such note to be issued in lieu of a note of a like face value heretofore issued for proper capital purposes though not authorized by this commission. **Authoriza-**

tion conditioned upon the securing by applicant of the return to its trustees of \$5,000.00 face value of its 5 per cent bonds issued contrary to the provisions of a prior decision of the commission.

*Chickering & Gregory*, by *Allen L. Chickering*, for Applicant.

GORDON, *Commissioner*.

#### OPINION.

This is an application of Economic Gas Company for authority to issue a three months 6 per cent promissory note to Citizens National Bank of Los Angeles in the principal sum of \$30,000.00 for the purpose of renewing a similar note now outstanding. Applicant also asks for the privilege of renewing said note from time to time for a period not exceeding one year.

The note which applicant desires to refund was originally issued on September 20, 1916, to obtain funds for the following purposes:

(a) To pay note of California Savings Bank originally issued July 28, 1913 -----	\$10,000 00
(b) To make partial payment on a \$37,000 00 note, due Welsbach Company, issued June 17, 1914 -----	5,000 00
(c) To discharge accounts payable -----	15,000 00
Total -----	\$30,000 00

The testimony indicates that the note now held by the Citizens National Bank of Los Angeles has been issued in violation of the provisions of the Public Utilities Act, and is therefore void. It appears, however, that the failure on the part of applicant to secure the necessary authority from the Railroad Commission to issue the note arose through inadvertence and not from any desire to evade the terms of the Public Utilities Act.

By Decision No. 3544, dated July 27, 1916, as amended, the Railroad Commission authorized applicant to issue and sell \$262,000.00 of its 5 per cent bonds at not less than  $83\frac{1}{3}$  per cent of their face value, plus accrued interest, or pledge said bonds at such a ratio that the face value of the notes for which the bonds are pledged as collateral shall never be less than  $66\frac{2}{3}$  per cent of the face value of the bonds pledged. Applicant proposes to pledge bonds pursuant to the terms and conditions of Decision No. 3544, to secure the payment of the \$30,000.00 note. It appears that heretofore applicant has issued \$5,000.00 of bonds contrary to Decision No. 3544. The commission is advised that these bonds will be returned to C. W. Conlisk, Allen L. Chickering and Ferd Reis, Jr., trustees, referred to in Decision No. 3544, as amended.

Applicant's annual report for the year ending December 31, 1916, shows that it has collected from its stockholders an assessment aggregating \$100,116.65. This assessment more than offsets any operating losses which applicant has sustained during the past five years, as reported to the Railroad Commission.

I believe that this application should be granted subject to the terms of the following order:

**ORDER.**

Economic Gas Company having applied to the Railroad Commission for authority to issue a 6 per cent promissory note in the principal sum of \$30,000.00, payable three months after date to Citizens National Bank of Los Angeles, and for authority to renew said note from time to time for a period not exceeding one year; and a public hearing having been held, and it appearing that the money, property or labor to be procured by the issue of the note is reasonably required for the purpose specified in the order,

*It is hereby ordered* that Economic Gas Company be and it is hereby authorized to issue for not less than the face value thereof, a promissory note to Citizens National Bank of Los Angeles, in the principal sum of \$30,000.00, payable three months after date and bearing interest at not to exceed 6 per cent per annum.

This authority is granted upon the following conditions:

1. The proceeds from the sale of the note herein authorized shall be used by applicant solely for the purpose of paying the \$30,000.00 indebtedness due Citizens National Bank of Los Angeles, said indebtedness now being represented by a note issued without authority from the Railroad Commission, which note shall be returned to Economic Gas Company and canceled.

2. Applicant may renew the note herein authorized to be issued from time to time, provided that the term of the note herein authorized and the renewals thereof shall not exceed one year.

3. Before issuing the note herein authorized, applicant shall secure the return to C. W. Conlisk, Allen L. Chickering and Ferd Reis, Jr., trustees, \$5,000.00 face value of 5 per cent bonds, said bonds being a portion of the \$50,000.00 face value of bonds now pledged with Citizens National Bank of Los Angeles to secure the payment of the \$30,000.00 indebtedness.

4. Economic Gas Company shall keep separate, true and accurate accounts showing the receipt and application in detail of the proceeds of the sale of the note herein authorized to be issued, and on or before the twenty-fifth day of each month the company shall make verified reports to the Railroad Commission stating the sale or sales of said note during the preceding month, the terms and conditions of the sale, the moneys realized therefrom, and the use and application of such moneys, all in accordance with this commission's General Order No. 24, which order, in so far as applicable, is made a part of this order.

5. The authority herein granted to Economic Gas Company to issue a note is conditioned upon the payment by applicant of the fee prescribed by the Public Utilities Act.

6. The authority herein given Economic Gas Company to issue a note and renewals thereof shall apply only to such note or notes as shall have been issued on or before October 1, 1918.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of California.

Dated at San Francisco, California, this eighth day of October, 1917.

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DECISION No. 4732.

IN THE MATTER OF THE APPLICATION FOR AUTHORITY TO SELL  
THE PROPERTIES OF LINCOLN NORTHERN RAILWAY COMPANY  
TO CENTRAL PACIFIC RAILWAY COMPANY.

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Application No. 2904.

*Decided October 8, 1917.*

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BY THE COMMISSION.

**ORDER.**

Applicant in the above-entitled matter and Central Pacific Railway Company having been heretofore granted permission, the one to sell and the other to buy, the properties of the Lincoln Northern Railway Company, subject to certain conditions, and these conditions having now been complied with,

*It is hereby ordered* that the permission granted in the original order in this matter (Decision No. 4441) is hereby made effective as of the date of this order, provided Central Pacific Railway Company shall carry on its books as an unadjusted suspense item, until a further order of the commission, the sum of \$18,528.85, this item representing interest on construction advances made by Southern Pacific Company to December 31, 1916.

Dated at San Francisco, California, this eighth day of October, 1917.

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DECISION No. 4733.

IN THE MATTER OF THE APPLICATION FOR AUTHORITY TO SELL  
THE PROPERTIES OF OROVILLE AND NELSON RAILROAD COM-  
PANY TO SOUTHERN PACIFIC RAILROAD COMPANY.

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Application No. 2907.

*Decided October 8, 1917.*

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BY THE COMMISSION.

**ORDER.**

Applicant in the above-entitled matter and Southern Pacific Railroad Company having been heretofore granted permission, the one to sell and

the other to buy, the properties of Oroville and Nelson Railroad Company, subject to certain conditions, and these conditions having now been complied with,

*It is hereby ordered* that the permission granted in the original order in this matter (Decision No. 4441) is hereby made effective as of the date of this order, provided Southern Pacific Railroad Company shall carry on its books as an unadjusted suspense item, until a further order of the commission, the sum of \$12,532.26, this amount being interest on construction advances made by Southern Pacific Company to December 31, 1916.

Dated at San Francisco, California, this eighth day of October, 1917.

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DECISION No. 4734.

IN THE MATTER OF THE APPLICATION FOR AUTHORITY TO SELL  
THE PROPERTIES OF COLUSA AND HAMILTON RAILROAD COM-  
PANY TO SOUTHERN PACIFIC RAILROAD COMPANY.

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Application No. 2908.

*Decided October 8, 1917.*

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BY THE COMMISSION.

**ORDER.**

Applicant in the above-entitled matter and Southern Pacific Railroad Company having been heretofore granted permission, the one to sell and the other to buy, the properties of the Colusa and Hamilton Railroad Company, subject to certain conditions, and these conditions having now been complied with,

*It is hereby ordered* that permission granted in the original order in this matter (Decision No. 4441) is hereby made effective as of the date of this order, provided Southern Pacific Railroad Company shall carry on its books as an unadjusted suspense item, until a further order of the commission, the sum of \$192,123.62, this amount being the interest advances made by Southern Pacific Company from October 1, 1914, to December 31, 1916.

Dated at San Francisco, California, this eighth day of October, 1917.

## DECISION No. 4735.

IN THE MATTER OF THE APPLICATION FOR AUTHORITY TO SELL  
THE PROPERTIES OF MOJAVE AND BAKERSFIELD RAILROAD  
COMPANY TO SOUTHERN PACIFIC RAILROAD COMPANY.

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Application No. 2909.

*Decided October 8, 1917.*

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BY THE COMMISSION.

**ORDER.**

Applicant in the above-entitled matter and Southern Pacific Railroad Company having been heretofore granted permission, the one to sell and the other to buy, the properties of the Mojave and Bakersfield Railroad Company, subject to certain conditions, and these conditions having now been complied with,

*It is hereby ordered* that the permission granted in the original order in this matter (Decision No. 4441) is hereby made effective as of the date of this order, provided Southern Pacific Railroad Company shall carry on its books as an unadjusted suspense item, until a further order of the commission, the sum of \$5,806.40, this amount being interest on construction advances made by Southern Pacific Company to December 31, 1916.

Dated at San Francisco, California, this eighth day of October, 1917.

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DECISION No. 4736.

CITY AND COUNTY OF SAN FRANCISCO

*vs.*

PACIFIC GAS AND ELECTRIC COMPANY.

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Case No. 839.

*Decided October 8, 1917.*

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1. The cost of cutting and replacing pavement over mains and services of defendant which were installed prior to the laying of the pavement is not allowed; however, an allowance is made to cover the cost of cutting and replacing of such pavement as existed prior to the present pavement.
2. An average cost per service connection of \$27.00 without overhead is held to be considerably in excess of the cost for services as determined by the commission in other investigations; however, as such other investigations are not in evidence in the present proceeding, the above amount is allowed.
3. Though the commission has established a general rule to the effect that all service connections must be installed at the expense of the utility, in a rate fixing investigation the commission will not deduct the value of service connections paid for by consumers prior to the effective date of such order, as there is nothing to show that such connections are not now the property of the utility.



4. The value of commercial arc lights, installed and owned by the utility, for which a rental is charged, are considered as appliances and their value is not included in the amount upon which a return is allowed.
5. The cost of lampblack and briquettes, by-products, which are manufactured by the utility from fuel oil, having heretofore been included by the company in its operating expenses, their value can not now be included as part of the capital on which a return is allowed, otherwise consumers would be compelled to pay for such items twice, once under the head of operating expenses and again under the head of capital upon which a return is allowed.
6. An item of \$14,247.09, being an addition of 10 per cent to the estimated cost of labor of installing street lamps, assumed to cover the expense of negotiations between the utility and the city with reference to the location of such lamps is not allowed, it being held that the segregation of such expense to capital account is unjustified in that the salaries of employees of which it is composed were always carried by the utility as an operating expense.
7. Under the head of working capital an allowance of two months operating expenses is made. A ten-days supply of fuel oil is allowed under the head of materials and supplies, the purchase price thereof not to be included under the head of working capital.
8. Where the rate base used is the investment or the estimated cost to reproduce the properties new, it is unfair to the consumers to add thereto any so-called going concern value, except at such times in connection with an item sometimes called going concern value, but which is more properly called unpaid development expense.
9. When the cost of developing a utility business has been repaid to the company engaged therein, no allowance for development expense will be made based on conditions which arose long after the business was developed and resulted from expensive competition between rival companies each seeking to take business away from the other.
10. In connection with the service by defendant of gas in the city and county of San Francisco a rate base of \$14,042,050.00 is found to be just and reasonable, provided a depreciation annuity estimated on the 6 per cent sinking fund basis is also established.
11. A return of 8 per cent on the fair value of defendant's property used and useful in the service of the public is allowed, such amount being a margin of 1.68 per cent over the average cost of money and 1.35 per cent over the rate of return necessary to insure the possibility of continuing to secure funds at this average cost of 6.32 per cent.
12. Administration expenses apportioned to San Francisco Gas District on a basis of gross revenue.
13. A utility which demands rates sufficient to amortize over a series of years property which has become nonoperative, has upon it the burden of proof to show that the depreciation reserves which the utility and its predecessors have set up, or could reasonably have set up, have been found insufficient to care for the abandoned property. In the absence of such proof it is assumed that rates of the past have been sufficient to take care of such obligations and the present ratepayers should not be called upon to provide therefor.
14. A city operating under a freeholders charter which specifically provides that the city authorities shall "prescribe the quality of service" for all water, heat, light, power and telephonic service, confines the commission to the establishment of rates only and not the heat content of the gas or pressure under which it is delivered.
15. Under a prior ruling of this commission public utilities may grant free or reduced rates to the federal and state governments and to the political subdivisions thereof which political subdivisions include municipalities, accordingly the city and county of San Francisco may receive a more preferential rate than that accorded to other consumers.
16. Consumers residing in apartment houses receiving gas from one service through a bank of meters should not be required to pay a minimum equal to that paid by other domestic consumers having individual service connections.

17. Following schedule of rates established effective within twenty days: First, 10,000 cubic feet per meter per month, 85 cents per 1,000, ranging to 60 cents per 1,000 for monthly consumption in excess of 300,000 cubic feet. Monthly minimum for flats and apartments where four or more meters are continuously served in one location and through one service connection, 35 cents, other domestic and commercial service, 50 cents.

*Percy V. Long*, city attorney, and *Robert M. Searls*, assistant city attorney, for city and county of San Francisco.

*C. P. Cutten*, for Pacific Gas and Electric Company.

*Garrett W. McEnerney*, of counsel.

*L. P. Loew*, for Palo Alto Gas Company.

THELEN and DEVLIN, *Commissioners*.

#### OPINION.

The issue in this proceeding is the establishment of just and reasonable rates to be charged by Pacific Gas and Electric Company, hereinafter at times referred to as the company, for artificial gas sold by it to the inhabitants of the city and county of San Francisco, hereinafter at times referred to as the city.

The complaint herein alleges, in effect, that complainant is a municipal corporation; that defendant is a California corporation engaged in the business of supplying gas and electricity for lighting, heating and power purposes to the city and county of San Francisco and the inhabitants thereof and elsewhere within the state of California; that for more than thirty years past the company and its predecessors have been so engaged and that at the present time the defendant is the only corporation which supplies gas for lighting and heating purposes within the city and county of San Francisco; and that the defendant charges to the inhabitants of the city and county of San Francisco the sum of 85 cents per 1,000 cubic feet of gas, with a minimum of 85 cents per service per month, and that said rates are excessive. The petition asks that the Railroad Commission establish just and reasonable rates to be charged by the defendant to the inhabitants of the city and county of San Francisco for the supply of gas for heating and lighting purposes.

The answer alleges that since July 1, 1915, defendant has been supplying gas to the inhabitants of the city and county of San Francisco at the following rates:

#### Gas Rates.

##### *On the Basis of Monthly Consumption Per Meter.*

- 85 cents per 1,000 cubic feet for the first 16,500 cubic feet.
- 70 cents per 1,000 cubic feet for the next 33,500 cubic feet.
- 65 cents per 1,000 cubic feet for the next 100,000 cubic feet.
- 60 cents per 1,000 cubic feet for the next 200,000 cubic feet.
- 55 cents per 1,000 cubic feet for all over 350,000 cubic feet.

A minimum monthly charge of 85 cents for each meter installed must be paid each month during which the flow of gas at the above schedule is less than such minimum.

Defendant alleges that the above rates are just and reasonable and requests that the complaint be dismissed.

Public hearings in this proceeding were held in San Francisco on October 30 and November 20, 1915; January 8, March 4, April 22, May 13, June 12 and 14, July 10, 11, 12, 20, September 5, 6, 8, 26, 27 and 28, October 9 and 10, 1916, and January 30 and 31, March 26 and 27, and April 13 and 14, 1917.

The parties asked and were granted permission to file briefs. The complainant's closing brief was filed on August 1, 1917. The proceeding has been submitted and is now ready for decision.

The case has been ably and exhaustively presented by both parties. The city introduced 58 exhibits; the company 46; Palo Alto Gas Company 3; and the Railroad Commission 25, prepared by the commission's own experts.

During the progress of the hearings, the presiding commissioners made an inspection, accompanied by representatives of both parties, of the company's entire gas generating properties in San Francisco.

The subject matter of this opinion will now be considered under the following heads:

- I. Historical.
- II. Gas statistics.
- III. Rates—past and present.
- IV. Rate base.
- V. Rate of return.
- VI. Maintenance and operating expenses.
- VII. Depreciation annuity.
- VIII. Service.
- IX. Rates herein established.

## I.

### HISTORICAL.

The gas business in San Francisco dates back for a period in excess of sixty years. During this time, nine separate companies engaged in the gas business, all of which companies were gradually merged and consolidated.

The first gas utility in San Francisco was known as the San Francisco Gas Company, and commenced the supply of artificial gas in February, 1854. The company was organized by James and Peter Donahue and their associates. This company, through successive changes of name, consolidations and mergers, has continued to the present time.

In 1866, the first competitor, called the Citizens Gas Company, commenced operations. Two years later, this company was absorbed by the San Francisco Gas Company.

In 1870, the City Gas Company entered the field, and in 1871, the Metropolitan Gas Company. These companies were both absorbed by the San Francisco Gas Company in April, 1873, at which time the name was changed to San Francisco Gas Light Company. This company enjoyed a monopoly for about ten years, until the Central Gas Light Company commenced operations in 1882. The latter company operated as competitor of San Francisco Gas Light Company until September, 1903, undergoing in the meantime several changes of name and ownership, finally terminating in its acquisition by Pacific Gas Improvement Company. The latter company developed considerable outside territory under a pooling arrangement with San Francisco Gas Light Company.

A new competitor, called the Equitable Gas Light Company, commenced operations in 1900, but this company was absorbed in 1903, after a rate war.

In 1901, Independent Gas and Power Company entered the field and constructed an extensive system and business. This competitor was eliminated by purchase in 1903.

In January, 1897, San Francisco Gas Light Company was merged with Edison Electric Company to form the San Francisco Gas and Electric Company. Between September 1, 1903, and November 15, 1903, San Francisco Gas and Electric Company absorbed the Equitable Gas Light Company, the Pacific Gas Improvement Company and the Independent Gas and Power Company, leaving it in complete control of the gas business until 1905, in which year San Francisco Gas and Coke Company, which company had been selling gas at wholesale to the San Francisco Gas and Electric Company, installed its own gas distributing system and initiated another period of competition.

In November, 1906, San Francisco Gas and Electric Company was consolidated with the newly incorporated Pacific Gas and Electric Company, which latter company first controlled the former company's capital stock and thereafter, in December, 1911, acquired its properties. The San Francisco Coke and Gas Company's plant and business were entirely destroyed in the catastrophe of April, 1906, but the company immediately rebuilt its plant under the name of Metropolitan Light and Power Company and developed a considerable business in the congested portions of San Francisco. This last remaining competitor was acquired by Pacific Gas and Electric Company in December, 1911.

Subsequent to December, 1911, Pacific Gas and Electric Company has enjoyed a monopoly of the gas business in San Francisco.

San Francisco has witnessed the development and use of three general processes of gas manufacture, two of which have now passed out of existence. Coal gas was manufactured exclusively prior to 1888. During the latter year, Pacific Gas Improvement Company installed its

water gas sets. Later, San Francisco Gas Light Company installed water gas apparatus. The water gas was produced by the action of steam on incandescent carbon and enriched by the addition of oil. Up to 1901, coal gas and water gas, as well as a mixture of the two, were distributed.

Coal gas became obsolete in 1901 and water gas was distributed exclusively until 1905, when the oil gas process was developed. From 1905 to July, 1915, a mixture of oil and water gas was sold.

In July, 1915, with the installation of the new oil gas generators at the Potrero station, the manufacture of water gas in San Francisco ceased. Subsequent to July, 1915, the gas distributed in San Francisco has been solely oil gas, having an average content of 550 B. t. u. per cubic foot.

## II.

### GAS STATISTICS.

Table I, appearing in Railroad Commission's Exhibit No. 8, gives a historical summary of gas operations in San Francisco from 1907 to 1916, inclusive.

**TAB**

#### GAS STATISTICS—1907

	Part	
	1907	1908
Total gas generated (M cu. ft.).....	3,551,789	3,447,351
Gas sent to Redwood (M cu. ft.).....		
Gas available for San Francisco.....	3,551,789	3,447,351
Gas sold San Francisco, exclusive of street lighting and Panama-Pacific International Exposition (M cu. ft.).....	2,461,338	2,705,195
Gas sold street lighting (est.), San Francisco (M cu. ft.).....	64,901	76,657
Gas sold P. P. I. E., San Francisco (M cu. ft.).....		
Total gas sales, San Francisco (M cu. ft.).....	2,526,239	2,781,852
Gas used by company, San Francisco (M cu. ft.).....	2,528	2,387
Total gas accounted for, San Francisco (M cu. ft.).....	2,528,467	2,784,239
Gas unaccounted for, San Francisco (M cu. ft.).....	1,023,022	663,112
Gas unaccounted for, San Francisco (per cent).....	28.8	19.2
Oil used for gas manufacture (barrels).....		
Oil used for gas manufacture per M cu. ft. mfgd. (gallons).....		
Average number of consumers.....	52,174	59,856
Daily average gas manufactured (cu. ft.).....	9,731,000	9,419,000
Maximum day's send-out (cu. ft.).....		
Sales per consumer—commercial only (cu. ft.).....	47,176	45,195
Sales per consumer—total (cu. ft.).....	48,419	46,476

## LE I.

## TO 1916, INCLUSIVE.

## A.

1909	1910	1911	1912	1913	1914	1915	1916
3,569,881 81,655	3,628,840 75,419	3,700,320 88,253	4,460,320 104,328	4,966,128 114,314	5,287,356 165,893	6,165,045 210,013	5,560,300 363,161
3,488,226	3,553,421	3,612,067	4,355,992	4,824,814	5,121,463	5,955,032	5,198,109
2,883,936 78,629	2,955,086 80,989	3,013,932 102,452	3,734,536 122,716	4,179,621 126,390 478	4,208,469 130,794 4,979	4,633,936 134,861 137,407	4,451,706 138,231 5,291
2,962,565 3,198	3,036,075 3,966	3,116,384 7,620	3,857,252 4,499	4,306,489 4,949	4,344,242 5,818	4,906,204 5,353	4,595,228 6,187
2,965,763	3,040,041	3,124,004	3,861,751	4,311,438	4,350,060	4,911,557	4,601,415
522,463 15.0	513,380 14.4	488,063 13.5	494,241 11.3	513,376 10.6	771,403 15.1	1,043,475 17.5	596,694 11.5
-----	-----	749,953 8.51	890,141 8.38	1,019,866 8.62	1,034,035 8.21	1,090,927 7.43	949,505 7.17
63,204 9,780,000	68,184 9,942,000	74,372 10,138,000	91,152 12,187,000	100,213 13,606,000 18,797,000	106,009 14,486,000 20,122,000	111,925 16,890,000 22,233,000	112,001 15,192,000 20,071,000
45,629 46,873	43,340 44,528	40,525 41,903	40,970 42,317	41,707 42,973	39,699 40,980	41,402 43,835	39,747 41,028

TAB

GAS STATISTICS—1907

Part

	1907	1908	1909	1910
Revenue—				
From sale of gas, San Francisco only—total .....	\$2,065,172 00	\$2,361,652 00	\$2,647,817 00	\$2,790,157 00
Per consumer per annum.....	39 58	39 45	41 89	40 92
M cubic feet sold.....	818	849	893	920
*Operating expenses—				
Maintenance of generating capital .....				
Maintenance of transmission capital .....				
Maintenance of distribution capital .....				
Total maintenance .....				
Expense—				
Generating expense—oil .....				
Generating expense—exclusive of oil .....				
Total generating expense .....				
Transmission expense .....				
Distribution expense .....				
Total expense .....				
Total operating expenses and maintenance .....				
Generating expense—				
Oil—per M (cents).....				
Exclusive of oil—per M (cents) .....				
Total per M (cents).....				
Distributing expense per consumer .....				
Operating ratio (per cent).....				

\*Operating expenses as reported by company on books.  
NOTE.—Revenue does not include that for gas for company use nor for gas sold to Redwood district, nor is any deduction made from generating and transmission maintenance and expense for these items.

## LE I.

TO 1916, INCLUSIVE.

## B.

1911	1912	1913	1914	1915	1916
\$2,793,602 00 37 56 883	\$3,108,549 00 34 10 807	\$3,478,760 00 34 71 808	\$3,745,567 00 35 33 864	\$4,175,811 00 37 31 849	\$3,909,590 00 31 91 851
-----	\$56,222 00	\$65,202 00	\$57,600 00	\$55,088 00	\$67,766 00
-----	2,444 00	3,099 00	7,752 00	1,612 00	2,615 00
-----	164,753 00	201,906 00	143,452 00	121,931 00	149,118 00
-----	\$223,419 00	\$270,207 00	\$208,804 00	\$178,631 00	\$219,499 00
-----	\$606,456 00	\$674,135 00	\$703,208 00	\$750,037 00	\$756,750 00
-----	248,185 00	321,673 00	290,934 00	304,474 00	238,833 00
-----	\$854,641 00	\$995,808 00	\$994,142 00	\$1,054,511 00	\$995,583 00
-----	15,069 00	17,378 00	14,558 00	15,261 00	16,503 00
-----	560,778 00	575,081 00	566,325 00	591,093 00	613,570 00
-----	\$1,430,488 00	\$1,588,267 00	\$1,575,025 00	\$1,660,865 00	\$1,625,656 00
-----	\$1,653,907 00	\$1,858,474 00	\$1,783,829 00	\$1,839,496 00	\$1,845,155 00
-----	13.60	13.57	13.30	12.16	13.61
-----	5.56	6.48	5.50	4.94	4.29
-----	19.16	20.05	18.80	17.10	17.90
-----	\$6 15	\$5 74	\$5 39	\$5 28	\$5 48
-----	53.24	53.42	47.63	44.05	47.19

The operating expenses shown in Table I are as reported on the company's books, without any alteration or modification thereof.



## III.

## RATES—PAST AND PRESENT.

Table II shows the top or base rate charged per 1,000 cubic feet of gas in noncompetitive territory in San Francisco from February, 1854, to date.

TABLE II.

## Gas Rates in San Francisco—Top or Base Rate—1854 to 1917.

Period of time	Top or base rate per 1,000 cubic feet
February, 1854, to February, 1856.....	\$15 00
February, 1856, to March, 1857.....	12 50
March, 1857, to November, 1857.....	10 00
November, 1857, to December, 1861.....	8 00
December, 1861 to 1864.....	6 50
1864 to 1867.....	6 00
1867 to 1868.....	5 00
1868 to 1870.....	*
1870 to 1873.....	4 50
April, 1873, to December, 1874.....	4 00
December, 1874, to November, 1878.....	3 75
November, 1878, to August, 1880.....	3 00
August, 1880, to August, 1882.....	2 70
August, 1882, to August, 1884.....	2 00
August, 1884, to June, 1885.....	2 25
June, 1885, to June, 1895.....	†
June, 1895, to June, 1899.....	†
June, 1899, to June, 1900.....	1 50
June, 1900, to June, 1902.....	1 40
June, 1902, to June, 1903.....	1 36
June, 1903, to June, 1904.....	1 20
June, 1904, to June, 1906.....	1 00
June, 1906, to July, 1908.....	85
July, 1908, to July, 1911.....	1 00
July, 1911, to July, 1912.....	85
January, 1912, to June, 1912.....	80
July, 1912, to July, 1913.....	75
July, 1913, to date.....	85

\*No record.

†\$2.00 for lighting and \$1.75 for fuel during 1889, 1890 and 1892.

‡\$1.75 for lighting and \$1.60 for fuel.

The rates shown in Table II are the top or base rates charged in noncompetitive territory. During times of competition the rates actually charged in competitive territory were frequently considerably lower than the rates shown in this table. During the competitive period between 1870 and 1873, while the top or base rate was \$4.50 per 1,000 cubic feet, the rate in competitive territory was as low as \$1.60 per 1,000 cubic feet. Between June, 1899, and June, 1900, while the top or base rate was \$1.50 per 1,000 cubic feet, gas was sold in Chinatown and other competitive territory for as low as 25 cents per

1,000 cubic feet. Between June, 1903, and June, 1904, while the top or base rate was \$1.20 per 1,000 cubic feet, the rate in competitive territory was \$1.00 per 1,000 cubic feet or less.

The first rate established by public authority was the rate of \$3.75 per 1,000 cubic feet, which was fixed by the city under the act of March 4, 1878, granting to municipalities having a population in excess of 100,000, the power to fix gas rates. A rate of 85 cents per 1,000 cubic feet was established by the city for the year commencing July 1, 1908, but this rate was enjoined and a rate of \$1.00 per 1,000 cubic feet was collected by the company. The dispute was later adjusted when the company rebated to its consumers one-half the amounts in dispute.

A rate of 75 cents per 1,000 cubic feet, effective July 1, 1912, was fixed by the city and accepted by the company for one year. When a similar rate was fixed by the city, effective July 1, 1913, the company secured a restraining order from the Federal Court. Under this restraining order and similar restraining orders annually secured thereafter, the company has been and is collecting a top base rate of 85 cents per 1,000 cubic feet for gas sold to the inhabitants of San Francisco.

Ordinance No. 3338, new series, of the city and county of San Francisco, effective July 1, 1915, undertook to fix the maximum rate to be charged for gas sold in San Francisco for the year commencing July 1, 1915, and ending June 30, 1916, or until rates should have been fixed by the Railroad Commission. The maximum rate was established at 75 cents per 1,000 cubic feet, with a minimum of 50 cents per meter per month. The company secured a restraining order from the Federal Court against the enforcement of this rate.

On August 8, 1915, the Railroad Commission secured jurisdiction over gas rates in San Francisco. The Railroad Commission thereupon directed Pacific Gas and Electric Company to file its rates for gas sold in San Francisco. The rates as thus filed provided for a minimum monthly charge of 85 cents per meter. The commission thereupon drew the attention of Pacific Gas and Electric Company to the fact that this minimum was in excess of the 50-cent minimum which was in effect at the time the constitutional amendment providing for the exercise by the Railroad Commission of jurisdiction over public utility rates within all the cities of the state became effective. The company thereupon filed a new rate schedule containing the reduced minimum, which schedule contains the rates which are actually being charged by the company for gas sold to the inhabitants of the city and county of San Francisco. This schedule constitutes Pacific Gas and Electric Com-

pany's Schedule No. 30 for light, heat and power service, is applicable in the city of San Francisco and reads as follows:

**Gas Rates.**

On the basis of the monthly consumption per meter.

- 85 cents per 1,000 cubic feet for the first 16,500 cubic feet.
- 70 cents per 1,000 cubic feet for the next 33,500 cubic feet.
- 65 cents per 1,000 cubic feet for the next 100,000 cubic feet.
- 60 cents per 1,000 cubic feet for the next 200,000 cubic feet.
- 55 cents per 1,000 cubic feet for all over 350,000 cubic feet.

**Rule Concerning Meter Rent.**

A rental charge of 50 cents per month will be made for each gas meter of 10-light size and under, and \$1.00 per month for each meter larger than 10-light size. These charges will cover any usage of gas that figures an equal or less amount than the respective meter rental. No rental will be charged when the charge for gas used exceeds the rental amount.

**IV.**

**RATE BASE.**

This subject will be considered under the following heads:

1. Original cost.
2. Jones valuation.
3. Reproduction cost less depreciation.
4. Working capital.
5. Franchises.
6. Going concern value.
7. Rate base herein used.

**1. Original cost.**

The testimony herein does not show the investment in the properties of Pacific Gas and Electric Company now used and useful in the supply of gas to the city of San Francisco and to its inhabitants. The parties report that this investment can not be ascertained.

**2. Jones valuation.**

Mr. E. C. Jones, appearing in behalf of the company, presented herein what is known as the Jones valuation, being an inventory and appraisal of gas properties of the company as of June 30, 1914. The unit prices used by Mr. Jones represent, with a few minor exceptions, the estimated reproduction cost of the property as of June 30, 1914, based on average prices during the five years prior thereto. To these unit costs, Mr. Jones applied a uniform overhead percentage of 10 per cent to cover certain items of overhead expenses hereinafter referred to. The Jones valuation does not include real estate or any so-called intangible items.

The city, through Mr. N. Randall Ellis, its valuation engineer, agreed to the unit prices shown in the Jones valuation. The city, however,

claimed that certain property items shown in the valuation are not at the present time used and useful in the gas business, and also disagreed with the final overhead percentage claimed by the company.

We shall now consider the various items which one or the other of the parties herein claims should be added to or deducted from the Jones valuation.

**(a) Duplicated mains.**

The city claims that a deduction for duplicated gas mains should be made as follows:

Pipe -----	\$121,942 78
Paving -----	46,539 67
Total deduction -----	<u>\$168,482 45</u>

The company claims that only those gas mains which were actually "dead" on June 30, 1914, should be deducted.

An exhaustive study of the situation with reference to duplication of gas mains was made by Mr. E. S. Bryant, one of the Railroad Commission's assistant engineers, and was introduced in evidence herein as Railroad Commission's Exhibit No. 3. Mr. Bryant reported that the deductions claimed by the city are proper and should be allowed, and suggested certain additional minor deductions.

The deductions claimed by the city for duplicated mains are proper and will be allowed.

**(b) Pavement over mains and service connections.**

The Jones appraisal includes the cost of cutting and replacing all pavement which lay over the company's mains and services on June 30, 1914, irrespective of whether such mains and services were laid prior to or subsequent to the laying of the pavement.

The city claims that the cost of cutting and replacing pavement which the company did not cut or replace and as to which the company incurred no expenditure should not be included in the rate base. The city's total claim for deductions under this head, as summarized in Table V of the city's opening brief herein is the sum of \$566,824.57, which sum excludes pavement over duplicated mains.

That the cost of cutting and replacing pavement over mains in cases in which the utility incurred no expense in connection therewith, should not be included in the rate base is clear both on reason and authority. *Des Moines Gas Company vs. City of Des Moines*, 238 U. S. 153; *In re Marin Municipal Water District*, Vol. 6, Opinions and Orders of the Railroad Commission of California, pp. 507, 518, affirmed by the Supreme Court of California in *Marin Water and Power Company vs. Railroad Commission*, 171 Cal. 706.

The same logic, of course, applies equally to pavement over services as to pavement over mains.

The company's brief does not question the proposition of law established by these authorities, but takes strong objection to the amount of the deduction which should be made. The company claims that a proper credit should be made for the expense incurred by the company in cutting through and replacing pavement which existed prior to the present pavement. While this claim appears to us to be reasonable, there is no evidence to show the exact amount of such expenditures and it has been necessary to make an estimate of the amount proper to be allowed.

After careful consideration of all the evidence which bears on this question, we have reached the conclusion that a deduction of \$443,840.00 from the Jones appraisal should be made to cover the item of cutting and replacing pavement over mains in those cases in which the mains were installed prior to the pavement.

Deduction should properly also be made of the cost of cutting and replacing pavement over services in those cases in which the services were laid prior to the pavement and in which such services have not been replaced by the company at a time when it was necessary for the company to cut through and replace the existing pavement. The evidence, however, is not sufficiently definite on this point to enable us to form a satisfactory conclusion, and for that reason, no deduction for this item will be made herein.

While referring to the subject of services, we may also say that the average cost per service connection claimed by the company amounting to \$27.00 without overhead and apparently accepted by the city, is considerably in excess of the costs determined by the Railroad Commission's engineers in other similar proceedings. The results of these investigations, however, are not a part of the evidence in this proceeding and for this reason it will be necessary for us to allow herein the full sum of \$27.00 without overhead per service connection claimed by the company and apparently conceded by the city.

**(c) Service connections paid for by consumers.**

The Jones inventory includes all service connections to the property line. The testimony shows that prior to 1912 it was the custom of the company, and to some extent of its predecessors, to charge their customers, except in districts of actual or potential competition, the sum of \$10.00 for each new service connection.

The city claims that the amounts thus paid should be deducted from the Jones appraisal. The city claims deductions as follows:

Amounts paid, 1906-1912-----	\$120,796 91
Amount paid prior to 1906, as estimated by Ellis-----	100,000 00
Total claimed deduction-----	<u>\$220,796 91</u>

The company urges that these service connections are its property and that it is entitled to a return thereon just as would be the case if it had acquired the property by gift.

The practice of making such charges would not be countenanced by the Railroad Commission at the present time. The commission has expressly ruled that it is the duty of gas utilities to install at their own expense, to consumers desiring to purchase gas, a service connection of normal size to the property line or curb line of property abutting upon the public street in which a main is laid. *In the matter of the practice of water, gas, electric and telephone utilities requiring deposits before rendering service*, Vol. 7, Opinions and Orders of the Railroad Commission of California, pp. 830, 851-854; Vol. 8, Opinions and Orders of the Railroad Commission of California, pp. 372, 380.

However, these payments were made to the company and its predecessors before the Railroad Commission acquired jurisdiction over gas utilities in California, and there is nothing in the record herein to negative the company's claim that these service connections are its property.

The city's claim to a deduction for this item will be denied.

**(d) Martin Station.**

This plant was at one time used in part to supply artificial gas to San Francisco. For a number of years this plant has been nonoperative and it is at the present time almost completely dismantled.

The city and the company agree that this item shall not be included in the rate base. With this conclusion we agree.

**(e) Independent works.**

The generating plant of Independent Gas and Power Company was heretofore used to manufacture water gas. The manufacture of water gas was discontinued by Pacific Gas and Electric Company in July, 1915, and this property subsequent thereto has been and now is nonoperative. The property should not be included in the rate base with the exception of the 1,000,000 cubic feet storage holder and connections, which are used as a part of the Potrero station.

**(f) North Beach plant.**

The small relief holder and boosting equipment at this plant are being deducted for the reason that they are clearly nonoperative.

**(g) Commercial arc lamps.**

Several years ago, the company installed commercial arc lamps largely in districts of electric competition, for the purpose of increasing gas sales. These lamps are appliances, the title to which is in the company, and for the use of which a rental is paid by the user in addition to the scheduled rates for gas consumed.

The city contends that these appliances are separate and apart from the capital investment necessary or used to serve gas to the city and county of San Francisco and to its inhabitants, and that if it should appear that the rental for the use of these appliances is not sufficient, such rental should be increased instead of burdening the company's remaining consumers. The city claims a deduction of \$142,982.60 for this item.

The company claims that the item should be retained.

In our opinion, the city's position is correct. In fixing the rates to be paid for gas, this item will be excluded, as will also be the rentals and maintenance of these lamps.

**(h) Lampblack and briquettes.**

The city claims that the lampblack and briquettes on hand which were included in the Jones inventory should be deducted on the ground that they represent an investment which has already been paid for by the consumer in operating expenses. The total amount at issue is \$12,733.68.

The company claims that it is entitled to the value of any by-product which may be derived from its operations and urges that this item should be retained.

The lampblack and briquettes under consideration are by-products which are manufactured by the company from fuel oil, the total payments for which have heretofore been included by the company in its operating expenses. If these items are now included as part of the capital on which a return is allowed, the consumers would be compelled to pay for these items twice, once under the head of operating expenses and again under the head of capital on which a return is allowed.

These items should be excluded from the rate base.

**(i) Intermediate overhead on street lamps.**

The Jones appraisal includes an item of \$14,247.09, being an addition of 10 per cent to the estimated cost of labor in installing the posts and services in connection with street lamps. The item is assumed to cover the expense involved in the location of street lamps and the negotiations with the city in regard thereto. These matters are passed upon by the lighting committee of the board of supervisors and negotiations are necessary prior to making installations.

The city contends that the company's employees who appeared before the board of supervisors in connection with the installation of street lamps are on the company's regular pay roll, that their salaries are always carried as an operating expense and that it would be improper to charge this expense to capital account.

The company contends that the item should be included in the rate base on the ground that it actually enters into the cost of installing the street lamps.

We have excluded the item for the reason that, in our judgment, it is properly a commercial expense and has always been so regarded. A segregation of this expense to capital would be a refinement which never has been made and which would not be justified.

**(j) Brick and steel work.**

A difference of \$9,366.45 exists between the city and the company in the appraisal of brick and steel work. The difference results principally from different unit prices adopted for steel. The item will be allowed.

**(k) Miscellaneous.**

In a few cases, the Jones appraisal shows values which Mr. Jones represents are less than the estimated cost to reproduce the property new. In those instances in which the appraised value as reported is less than the estimated cost to reproduce the property new, as for instance the old oxide shed at the Potrero works, the necessary restorations are herein made. The items of dredging in front of the wharf at the Potrero works and leveling the site of the Potrero works have not been included because already covered in the agreed market value of the land.

The briquetting plant at the Potrero works and the tar pipe and fittings have been excluded because no longer operative.

A proper pro rata of the high pressure main from the Potrero works to the San Francisco-San Mateo County line and of the compressor room and equipment at the Potrero works has been deducted as properly chargeable to the company's Redwood District and not to the San Francisco District.

A number of minor adjustments to which it is not necessary to refer have also been made.

**(l) Overhead percentages.**

The city and the company agreed that as to the unit prices in the Jones appraisal, in so far as overhead percentages are properly applicable, there should be added an overhead percentage of 10 per cent, consisting of 6 per cent for engineering and superintendence, and 4 per cent for the cost of organizing a construction force, delays in shipments of material, excess freight, inclement weather, casualty insurance and piecemeal construction.

The city conceded that to this overhead should be added 2 per cent for general administration and 3 per cent compounded on 112 per cent for interest during construction. The company claimed an allowance of 4 per cent for general administrative expenses, compounded on 110 per cent, and an additional 3 per cent for interest during construction, compounded on 114.4 per cent.

We are satisfied that 3 per cent for interest during construction is excessive, especially as applied to property other than the production and transmission system.



After careful consideration, we are using the following overhead percentages, which we find to be just and reasonable:

Production and transmission .....	16 per cent
Distribution .....	15 per cent
Services and meters .....	13 per cent
Street lighting .....	12 per cent
Commercial ares .....	12 per cent
Miscellaneous distribution equipment .....	12 per cent

**(m) Real estate.**

The parties agreed on the allowance to be made in the rate base for real estate and we have included the agreed amounts on all operative real estate.

**(n) Additions and betterments.**

To the corrected Jones appraisal as of June 30, 1914, have been added the additions and betterments to December 31, 1916, as follows:

Net additions and betterments, July 1, 1914, to December 31, 1915 .....	\$361,205 00
Net additions and betterments, January 1, 1916, to December 31, 1916 .....	531,290 00
Total .....	<u>\$892,495 00</u>

We have also added an item of \$200,000.00 for construction capital and miscellaneous, which we are satisfied, under the conditions now existing, will be sufficient to include the cost of new construction to keep pace with the business during the first six months of 1917. In reaching this conclusion, we have in mind that the number of the company's consumers is practically stationary and that it is not reasonable to assume an additional consumption of gas in excess of  $1\frac{1}{2}$  per cent during the ensuing year. Under these circumstances, large additional expenditures of capital would not be justified unless resulting in corresponding reductions in the operating expenses herein allowed.

**3. *Reproduction cost less depreciation.***

The city estimated the cost to reproduce the company's physical structures less accrued depreciation, as follows:

As of December 31, 1914 .....	\$9,084,307 11
As of December 31, 1915 .....	8,630,897 59

The company presented no detailed estimate of cost to reproduce less accrued depreciation, but its witness, Mr. W. G. Vincent, Jr., testified that the physical condition of the company's San Francisco gas property, taking a general overhead estimate and not considering each individual structure, is between 80 and 85 per cent of its condition new.

#### 4. *Working capital.*

The city contends that an allowance of \$150,000.00 for working capital is sufficient.

The company suggests that an allowance of between \$400,000.00 and \$500,000.00 be made, including contingencies and construction capital, but admits that it is difficult to reach a satisfactory conclusion.

Mr. G. S. Jacobs, one of the Railroad Commission's assistant engineers, presented as Railroad Commission's Exhibit No. 6, a detailed study of the proper method to be employed in ascertaining a just and reasonable working capital for the company in this case.

After careful consideration, we see no reason to depart herein from the method frequently employed by this commission and other commissions of allowing as working capital, two months' operating expenses, except only that a ten days' supply of fuel oil is being allowed under the head of materials and supplies and that the purchase price thereof should not also be included under the head of working capital.

We find that the sum of \$300,000.00 is a reasonable amount to be allowed herein for working capital.

#### 5. *Franchises.*

The company operates its gas properties in San Francisco under a so-called "constitutional franchise," secured by predecessors under the provisions of section 19, Article XI, of the Constitution of California prior to the amendment of October 10, 1911.

This franchise was granted by the state without any money payment by the grantee.

The company does not claim any separate allowance herein for franchise value.

#### 6. *Going concern value.*

The company urges that the rate base herein should consist of the estimated cost to reproduce its physical properties new, with appropriate allowances for materials, supplies and working capital and that there should be added thereto an item of \$3,000,000.00 to represent the "going concern value" of the property.

The authorities cited in the company's brief in support of this contention, in so far as they are rate cases, are practically all cases in which an addition for "going concern value" was made to an estimate of reproduction cost *less accrued depreciation*. In other words, having reduced the rate base below the investment and below the estimated reproduction cost on the historical or some other basis, the court or

commission then filled the gap which had thus been created by replacing all or most of what had been taken out, the amount thus being replaced being called "going concern value." Such procedure is, in our opinion, entirely unsatisfactory. It seems to result from a subconscious realization that without such addition, the rate base would not be just and reasonable to the public utility and that such base must be made right by restoring under some other name, what had been taken away.

Where, however, the base used is the investment or the estimated cost to reproduce new, adjusted if necessary, it is generally unfair and unjust to the consumer to add thereto any so-called "going concern value," except at times in connection with an item which is sometimes called "going concern value," but which is really unpaid development expense.

In the present case, the testimony shows that the cost of developing the gas business in San Francisco has long since been repaid to the companies engaged therein and that no additional allowance therefor should be made herein. The claim that an allowance for development expense should be made on the basis of conditions which arose long after the business was developed and resulted from the expensive competition of rival gas companies, each seeking to take business away from the other, does not commend itself to us.

The company's property herein is being valued as a property in successful operation by a going and successful public utility. Under the facts as shown by the testimony herein, the additional allowance claimed by the company under the head of "going concern value," over and above the value of the property as a going concern in successful operation by a going and successful public utility should not be made. *Des Moines Gas Company vs. Des Moines*, 238 U. S. 153; *In re San Joaquin Light and Power Corporation*, Vol. 9, Opinions and Orders of the Railroad Commission of California, pp. 542, 576-586, affirmed by the Supreme Court of California in *San Joaquin Light and Power Corporation vs. Railroad Commission*, 53 Cal. Dec. 572.

#### 7. Rate base herein used.

The rate base herein used, which we find to be just and reasonable to all parties, in connection with the service by the company of gas to the inhabitants of the city and county of San Francisco is the sum of \$14,042,050.00. This sum is just to the consumers of gas only on the assumption that the depreciation annuity herein is estimated on the 6 per cent sinking fund basis, as hereinafter pointed out.

Table III shows the rate base herein used.

**TABLE III.**  
**RATE BASE.**

**San Francisco Gas District—Pacific Gas and Electric Company.**

	<b>E. C. Jones appraisal as of June 30, 1914, with adjustments and overhead.</b>	<b>Net addi- tions and betterments July 1, 1914, to December 31, 1916, inclusive.</b>	<b>Total rate base.</b>
Nonlanded capital.			
Production and transmission-----	\$2,288,788	\$368,836	\$2,657,624
Distribution -----	9,224,314	523,659	9,747,973
Total nonlanded capital -----	\$11,513,102	\$892,495	\$12,405,597
Real estate -----			831,434
General capital -----			215,751
Materials and supplies-----			150,000
Working capital -----			300,000
Construction capital and miscellaneous-----			200,000
Total capital -----			\$14,102,782
Less capital used exclusively for Redwood District-----			60,732
Net capital, San Francisco operations-----			\$14,042,050
Segregation of capital, chargeable to San Francisco gas operations.			
Production and transmission-----			\$3,633,459
Distribution -----			9,984,626
Street lighting -----			295,868
Commercial ares -----			128,097
Total capital, San Francisco gas operations -----			\$14,042,050

**V.**

**RATE OF RETURN.**

An exhaustive report on the cost of money to Pacific Gas and Electric Company and its predecessors was prepared by Mr. Paul A. Sinsheimer, stock and bond expert of the Railroad Commission, and introduced in evidence herein as Railroad Commission's Exhibit No. 11. In this report, Mr. Sinsheimer not merely analyzes in all appropriate detail the cost of money to Pacific Gas and Electric Company and its predecessors in connection with each issue of securities by them, but also presents data to show the cost of money to other enterprises, both public utility and otherwise, and to public authorities in connection with public works in California and elsewhere.

The following conclusions, among others, are reached by Mr. Sinsheimer:

1. That up to 1911, Pacific Gas and Electric Company and its predecessors issued bonds of the face value of \$57,408,975.00 at an average cost of money of 5.15 per cent;

2. That subsequent to 1911, Pacific Gas and Electric Company has issued bonds of the face value of \$30,000,000.00 at costs of money ranging from 6.07 to 6.548 per cent;

3. That the cost of money on \$87,408,975.00 face value of said bonds, has been 5.60 per cent;

4. That the cost of money based on the bonds, preferred stock, common stock and notes sold by Pacific Gas and Electric Company during the six-year period from 1910 to 1917, has been an average cost of 6.97 per cent;

5. That the cost of the money now in the property of Pacific Gas and Electric Company has been 6.32 per cent;

6. That in order to enable Pacific Gas and Electric Company to secure its money at a cost of 6.32 per cent, it will be necessary for the company to have such earnings as will be secured from a return of 6.65 per cent upon the fair value of the company's properties.

Mr. Sinsheimer draws attention to the fact that the effect of the recent issue of preferred stock in the amount of over thirteen million dollars at a cost of money of 7.22 per cent will have the result of ultimately reducing the total cost of bond and other moneys by considerably increasing the margin against which bonds may reasonably be issued.

Mr. Sinsheimer concludes that a return in excess of 8 per cent on the fair value of the company's property would be an unnecessary burden upon consumers unless accompanied by decreases in rates or improvement in service.

Mr. Sinsheimer's report clearly shows that the average cost of money to Pacific Gas and Electric Company has been 6.32 per cent and that in the absence of extraordinary conditions, the company can continue to secure its funds at this cost if it secures a return of 6.65 per cent on the fair value of its property.

In *City of Palo Alto vs. Palo Alto Gas Company*, Vol. 2, Opinions and Orders of the Railroad Commission of California, p. 300, this commission, at page 317, said:

"The commission in fixing a rate of return must be liberal, lest too strict a policy result in turning capital to other fields of enterprise. California needs development by public utilities, and this commission's policy should be a broad and liberal one, so as to encourage capital to develop the state by legitimate public utility enterprises where needed. The commission should be careful not to permit an inflation of prices in ascertaining the value of the property of a public utility used and useful for the public purpose, but should be liberal in establishing the rate of return on that value."

In this case, we shall recommend rates which, to the best of our judgment, will yield to the company a return of 8 per cent on the fair value of the property used and useful, being a margin of 1.68 per cent over the average cost of money to the company, and 1.35 per cent

over the rate of return necessary to insure the possibility of continuing to secure funds at this average cost of money.

In permitting this return, we do so with a frank realization that it allows a liberal margin over the cost of money. We are animated in doing so, not merely by a desire to be fair to the company, but also in part by the uncertainty as to whether the price of fuel oil will not further advance and by the desire to create a margin of profit which will take care, at least for a time, of such further advance, if it occurs.

## VI.

### MAINTENANCE AND OPERATING EXPENSES.

The item of maintenance and operating expenses is of outstanding importance in this case because of the increased cost of fuel oil and wages. If it were not for the increased cost of these two items, the consumers of gas in San Francisco might reasonably have expected rates for gas materially lower than those now in effect.

The cost of fuel oil is by far the largest single operating expense in connection with the manufacture of gas by Pacific Gas and Electric Company. Fuel oil is purchased by the company from Associated Oil Company under a contract which is dated September 30, 1911, and expires on September 30, 1921. Under this contract, Pacific Gas and Electric Company, during the period from 1912 until October 1, 1916, paid for fuel oil delivered in its tanks in San Francisco, the sum of 68½ cents per barrel. The contract provides that subsequent to October 1, 1916, Pacific Gas and Electric Company must pay for oil delivered in its tanks in San Francisco, a sum consisting of the average field price paid by Associated Oil Company plus a collection charge amounting to approximately 1½ cents per barrel, plus a commission of 10 per cent, plus a transportation charge of 25 cents per barrel. Under this arrangement, the company is now paying \$1.35 per barrel for its oil delivered in San Francisco as contrasted with 68½ cents per barrel paid prior to October 1, 1916.

The cost of oil to Pacific Gas and Electric Company has thus practically doubled. While the company's payment for oil in 1916 was \$688,538.00, a year's payment based on the present price with only a very slight assumed increase in the amount of gas manufactured would be \$1,324,192.00, an increase of \$635,000.00. This increase in the cost of fuel oil means an increased cost of 11.35 cents in the manufacture of each 1,000 cubic feet of gas. It means that the average gas bill paid by all consumers in San Francisco, both large and small, over what they otherwise would have been required to pay, will be increased \$5.00 per year.

We have no means of knowing whether the cost of fuel oil will mount still higher, and, if so, to what extent. On the other hand, is

the well-known fact that the consumption of California fuel oil is out-running production at an average of over one million barrels each month, notwithstanding largely augmented drilling. At the present excess of consumption over production, California's fuel oil storage will be exhausted by June 1, 1919. On the other hand, if through compromise of the existing litigation or through stipulation therein, undrilled proven lands now in litigation between the federal government and the claimants should be thrown open to any considerable extent to intensive drilling, such action would undoubtedly have a tendency to hold the price of fuel oil at its present figure. Furthermore, if the federal government should fix the price of petroleum, such action would also tend to prevent further increases in price. We can not speculate herein as to what the future cost of fuel oil will be. Under the circumstances, we shall allow as the cost of fuel oil in this proceeding the present cost thereof to Pacific Gas and Electric Company, being \$1.35 per barrel delivered into the company's tanks at San Francisco. This cost will be applied to the entire year's business.

The wages paid by Pacific Gas and Electric Company to all employees engaged in its gas works and in the physical maintenance and operation of its gas properties in San Francisco have recently been increased. On recent advice from the gas workers that they had made application to Pacific Gas and Electric Company for an increase in their wages and asking whether such increase, if granted, could not be taken care of in the rates to be established in this proceeding, the commission transmitted the communication to Pacific Gas and Electric Company with a request for a statement of the company's attitude. The commission was thereafter advised that the company had decided to increase the wages of these employees, effective July 1, 1917. This increase in wages affects 363 employees of the company in its San Francisco Gas District and will result in an annual increase in the company's pay roll amounting to \$28,970.75. This increase will be included in the maintenance and operating expenses herein allowed.

The evidence herein concerning maintenance and operating expenses is largely directed to the years ending June 30, 1914, and June 30, 1915, these being two of the years involved in the litigation between the parties hereto in the federal courts. Considerable testimony herein relates to the propriety of operating expenses of the San Francisco gas business claimed by the company during these two years and challenged by the city. Some of these items are for accounts which have now been completely paid and others the company itself concedes will not recur. The maintenance and operating expenses of these two years are of value herein only in so far as they throw light on reasonable maintenance and operating expenses for the future to be allowed herein.

We have decided to use as a basis for just and reasonable maintenance and operating expenses the expenses incurred by the company during the calendar year 1916, using, however, a full year's allowance for the cost of fuel oil at the price of \$1.35 per barrel and including the annual increase in wages recently granted. While the maintenance and operating expenses for 1916 were substantially greater than those of 1915, we are satisfied by reason of the increase of cost of materials and other factors that the maintenance and operating expenses for 1916 form a reasonable basis for maintenance and operating expenses to be herein allowed. General administrative expenses will be prorated to the San Francisco gas business on the basis of gross revenue.

We find that a reasonable annual allowance for maintenance and operating expenses herein, not including the maintenance and operating expenses directly chargeable to street lamps and commercial arc lamps, is the sum of \$2,472,966.00.

Table IV shows the company's direct maintenance and operating expenses, as shown on its books, for 1915 and 1916, together with the amount herein allowed.

**TABLE IV.**  
**MAINTENANCE AND OPERATING EXPENSES—1915-1916—AND AS**  
**HEREIN ALLOWED.**

**San Francisco Gas District—Pacific Gas and Electric Company.**

	As reported on company's books		As herein allowed.
	1915.	1916.	
<b>Production.</b>			
Maintenance -----	\$55,088	\$67,766	\$69,283
Operating expense -----	304,474	238,833	272,432
Fuel oil -----	750,037	688,538*	1,324,192
<b>Total production -----</b>	<b>\$1,109,599</b>	<b>\$995,137</b>	<b>\$1,665,907</b>
<b>Distribution (including transmission).</b>			
Maintenance -----	\$123,543	\$151,733	\$150,426
Operating expense -----	606,354	630,073	656,533
<b>Total distribution -----</b>	<b>\$729,897</b>	<b>\$781,806</b>	<b>\$807,059</b>
<b>Total production and distribution -----</b>	<b>1,839,496</b>	<b>1,776,943</b>	<b>2,472,966</b>

\*Corrected figure for oil, year 1916.

NOTE.—The company's figures for 1915 and 1916 for transmission, maintenance and expense are included in distribution in this table, in total, no segregation being made to Redwood district.

## VII.

### DEPRECIATION ANNUITY.

Both parties agreed that the rates herein established should yield a revenue sufficient to enable the company to set aside a reasonable depreciation annuity. The parties, however, disagree with reference to the amount of the annuity to be thus set aside.

The city urges that the depreciation annuity should be estimated on the straight line basis while the company urges the 4 per cent sinking fund basis.



We find that the just basis to be adopted herein, bearing in mind the rate base and the rate of return herein established, is the 6 per cent sinking fund basis.

Mr. N. Randall Ellis, representing the city, and Mr. W. G. Vincent, Jr., representing the company, agreed during the early hearings herein on the remaining lives of the various items of the physical property. In reaching their conclusion, they gave consideration to wear and tear, obsolescence and inadequacy. Later, after the company had presented testimony showing that it anticipates only a slight increase in its sales of gas, Mr. Ellis testified that in the light of this situation, he could not adhere to the lives theretofore agreed upon. Mr. Ellis testified that in the light of the new testimony he had given too much consideration to the elements of obsolescence and inadequacy and that it would be necessary to lengthen the remaining lives of the property as estimated by him. In this respect, Mr. Ellis is undoubtedly correct.

The matter of depreciation annuity was carefully presented by Mr. F. Emerson Hoar, the Railroad Commission's gas and electrical engineer, in a report which was introduced in evidence as Railroad Commission's Exhibit No. 23. The depreciation annuity herein used will be based on the average percentages applicable to each class of property as determined by Mr. Hoar, which percentages we find to be reasonable.

Consideration must now be given to the question whether the rate-payers shall pay increased rates in order to amortize part or all of the investment in Martin station and in the Independent Gas Works, both of which properties have become nonoperative. Basing his conclusion on the hypothesis that the Railroad Commission might find it proper to provide for the amortization in future rates of part of the investment in Martin station, Mr. A. F. Bridge, one of the Railroad Commission's assistant engineers, reported in Railroad Commission's Exhibit No. 5, that on the 6 per cent sinking fund basis the remaining investment in the station, assuming that there was such remaining investment, might be amortized at the rate of \$22,632.00 yearly, if amortized in five years, and \$18,289.00 yearly, if amortized in six years. The Independent Gas Works were constructed in 1901, and sold to San Francisco Gas and Electric Company, the predecessor of Pacific Gas and Electric Company, in November, 1903, and became nonoperative in July, 1915. Their estimated reproduction cost new as of June 30, 1914, as reported in the Jones appraisal, was \$492,476.36.

Whenever any part of a public utility's property becomes non-operative by reason of wear, tear, obsolescence, or inadequacy, or otherwise, it is normally charged against the depreciation reserve. Very careful consideration must be given to a demand by a public utility that the public shall continue to pay in rates for property which has

ceased to be of any use in the service rendered by the utility. Particularly unjust would be such a procedure if the rates which the utility and its predecessors have charged have been high enough so that a proper depreciation reserve has been created or reasonably could have been created. Such reserve must, of course, take into consideration the elements of obsolescence and inadequacy, as well as wear and tear, so that property which becomes obsolete or inadequate because of advances in the art or otherwise, prior to the expiration of its normal life, may be charged off against the depreciation reserve.

A utility which demands that the ratepayers shall pay rates sufficient to amortize over a series of years property which has become nonoperative, has upon it the burden of proof to show that the depreciation reserves which this company and its predecessors have set up or could reasonably have set up have not been or would not have been sufficient to take care of the abandoned property. In the absence of such proof, the presumption is that the revenues of the past have been sufficient to take care of the obligations of the past and that the ratepayer of the present and the future will not be called upon to pay the obligations of the past, whether incurred through wear, tear, obsolescence or inadequacy, the absorption of rival companies, or otherwise.

In the present instance, the company has entirely failed to sustain this burden of proof. On the contrary, on November 27, 1911, on which day San Francisco Gas and Electric Company was merged with Pacific Gas and Electric Company, the San Francisco Gas and Electric Company had a balance of \$2,543,492.69 in its depreciation reserve. This sum was taken out of the depreciation reserve and was transferred to an account termed "consolidated surplus" and thus made available for the declaration of dividends by Pacific Gas and Electric Company. The entire remaining portion of Martin station properly chargeable to the gas business and the entire unamortized portion of the Independent Gas Works could be charged off against this depreciation reserve and still leave in excess of \$2,000,000.00 in this reserve available to charge off against the same gas and electric properties of San Francisco Gas and Electric Company which might become nonoperative.

There is nothing in the testimony herein to show that the past revenues of Pacific Gas and Electric Company and its predecessors have been insufficient to take care of both Martin station and the Independent Gas Works. No allowance will be made herein for the amortization of any part of either of these properties.

We find that the sum of \$259,550.00 is a reasonable depreciation annuity to be allowed herein. The general items which make up the total appear in Table V.

**TABLE V.**  
**DEPRECIATION ANNUITY.**

**San Francisco Gas District—Pacific Gas and Electric Company.**

Production capital .....	\$29,598 00
Distribution capital .....	229,952 00
Total for depreciable capital.....	<u>\$259,550 00</u>

NOTE.—Production and distribution capital above include pro rata of general capital, construction capital, etc.

**VIII.**

**SERVICE.**

Considerable testimony herein bears on the heating value and the pressure conditions of the gas sold by the company to the inhabitants of San Francisco.

The rates of Pacific Gas and Electric Company for gas on file with the Railroad Commission, provide in part as follows:

“The rates specified in these schedules apply only to the use of such gas as is regularly furnished by the company in the locality in which the premises to be served are situated, the gas supplied having an average heating value of 600 British thermal units per cubic foot, and a pressure used at the meter, of not less than three inches of water.”

The testimony shows that while the average heat content per cubic feet of gas prior to the introduction of the improved Jones oil gas process was 600 B. t. u, the gas actually served since July, 1915, has had an average heating value of only 550 B. t. u. The present heat content of the gas was testified to by Mr. E. C. Jones, appearing for the company, and demonstrated by a large number of tests taken by the Railroad Commission's gas and electrical division in the commission's laboratory in San Francisco.

The reduction in the heat content of the gas was accompanied by a corresponding reduction in the quantity of oil required in gas manufacture. Mr. E. C. Jones testified that at the then prevailing price of oil the manufacture of 600 B. t. u. gas from fuel oil would cost at least 4.92 cents per 1,000 cubic feet in excess of the cost of manufacturing 550 B. t. u. gas.

The testimony shows that, due to peculiar topographical conditions existing in San Francisco, and covering wide ranges of elevation within comparatively small areas, and due also to peculiar conditions of distribution resulting from a consolidation of former competitive systems, a wide variation of pressure under which gas is supplied to the consumers' premises exists in San Francisco.

The heat content of the gas and the pressure under which it is delivered are matters which go to the quality of the service. Accordingly, they are subject to the jurisdiction of the city and county of

San Francisco under the provisions of Article II, chapter 2, section 1, subdivision 14 of the Freeholders' Charter of San Francisco, providing in part that the board of supervisors of the city and county of San Francisco shall have power to "prescribe the quality of the service" for all water, heat, light, power and telephonic service.

The Railroad Commission not having the power to prescribe the quality of the service of gas within the city and county of San Francisco, the commission must confine itself herein to the establishment of rates to be charged for the particular kind of service which the company is at the present time giving in San Francisco. If the board of supervisors should hereafter establish a different quality of service, as to either the number of heat units or the uniformity of pressure, or otherwise, the commission could at that time make such modifications in the rates herein established as might then appear just and reasonable.

## IX.

### RATES HEREIN ESTABLISHED.

The rates which are actually being charged by the company to the inhabitants of the city and county of San Francisco have hereinbefore been set forth.

The company also sells gas to the city and county of San Francisco for use by the municipality for its public purposes. The rates for this service are as follows:

Single burner gas lamps, per night, each-----	\$0 06½
Double inverted gas lamps, per night, each-----	10
Triple top gas lights, per night, each-----	15
Double globe gasoliers, per night, each-----	15
Single globe gasoliers, per night, each-----	10
Single globe gasoliers, one mantle, per night, each-----	12
All gas used by the city in all public buildings, offices, yards and public places upon a meter basis, .60 per 1,000 cubic feet.	

The rates charged by the company to the city and county of San Francisco for public purposes are not at issue in this proceeding and the present rates for this service will be permitted to remain effective. Under this commission's decision made on January 24, 1913, in Case No. 293 (Vol. 2, Opinions and Orders of the Railroad Commission of California, pp. 73, 87), public utilities may grant free or reduced rates to the federal and state governments and to the political subdivisions thereof, which political subdivisions include municipalities.

The rentals charged by the company for commercial arc lamps have not been placed at issue herein and no rentals will be established herein to be charged by the company for the use of its commercial arc lamps.

The consumers of gas in San Francisco may be divided into two classes, namely, the ordinary domestic consumers who use gas largely for fuel purposes with a small amount for lighting, and the industrial consumers who use large quantities for fuel purposes. Generally speaking, 75 per cent of the consumers use less than 3,000 cubic feet of gas per month. The amount of their consumption is about 40 per cent of the total gas consumed. The remaining 25 per cent of the consumers use the remaining 60 per cent of the gas. The large proportion of heavy consumers is reflected in the high average consumption per consumer, which is in the neighborhood of 40,000 cubic feet of gas per consumer per annum.

By reason of the steadily increasing prices of crude oil and other fuels, we are of the opinion that some increase in the use of gas for fuel purposes on a fairly large scale may be expected. On the other hand, the increased cost of manufacturing gas, due to the higher cost of oil and labor, will not be sufficient in this case, to curtail the use of gas. The rates herein fixed are of such a form that they will not materially affect the cost of service to the various existing classes of the company's consumers.

The testimony shows that discrimination with reference to the minimum charge exists against many of the company's smaller consumers who live in apartment houses and are served as a group from one service through a bank of meters. The reasonable apportionment of the cost of service to these two classes of consumers requires that the apartment house consumer should bear a smaller amount of the so-called consumer charge than should the ordinary single domestic consumer. We have removed the discrimination by establishing a minimum monthly bill of 35 cents per meter for domestic service for flats and apartments where four or more meters are continuously served in one location and on one service, while the minimum monthly bill per meter for all other domestic and commercial service will be 50 cents per meter per month.

Table VI shows the cost of service of gas to the inhabitants of the city and county of San Francisco.

**TABLE VI.**  
**Cost of Service to Inhabitants of San Francisco.**

Rate base .....	\$14,042,050
Return on rate base at 6.32 per cent, being the average cost of money .....	\$87,458
Depreciation annuity on depreciable capital .....	259,550
Maintenance .....	219,709
Operating expenses .....	928,965
Fuel oil .....	1,324,192
General administrative expense .....	119,693
Insurance and miscellaneous .....	17,500

Uncollectible accounts -----	39,020
Taxes -----	243,454
Net cost of service -----	\$4,039,541
Profit to bring return to 8 per cent. -----	235,906
Total cost of service with 8 per cent return -----	\$4,275,447
Deduct cost of gas to Redwood district -----	153,356
Cost of service to San Francisco district with 8 per cent return -----	\$4,122,091

*Segregation of Cost of Service to San Francisco District.  
Based on 8 per cent Return.*

	Total	Average per M. cubic feet sold
Production -----	\$1,934,931	42.31¢
Distribution -----	1,912,916	41.83¢
Total to consumers -----	\$3,847,847	84.14¢
Street lighting—including cost of gas used -----	208,001	
Commercial ares -----	66,243	
Grand total -----	\$4,122,091	

After careful consideration, we find that the following rates are just and reasonable rates to be charged by Pacific Gas and Electric Company to the inhabitants of the city and county of San Francisco for gas supplied to them having an average heating value of 550 B. t. u.:

**TABLE VII.**

**Rates Herein Established.**

Applicable to all classes of consumers in the city and county of San Francisco.	
For the first 10,000 cu. ft. per meter per month, 85 cents per 1,000 cu. ft.	
For the next 20,000 cu. ft. per meter per month, 80 cents per 1,000 cu. ft.	
For the next 40,000 cu. ft. per meter per month, 75 cents per 1,000 cu. ft.	
For the next 80,000 cu. ft. per meter per month, 70 cents per 1,000 cu. ft.	
For the next 150,000 cu. ft. per meter per month, 65 cents per 1,000 cu. ft.	
For all over 300,000 cu. ft. per meter per month, 60 cents per 1,000 cu. ft.	
Minimum monthly bill per meter for domestic service for flats and apartments where four (4) or more meters are continuously served in one location and on one service -----	35 cents
Minimum monthly bill per meter for domestic and commercial service other than the above -----	50 cents

Table VIII shows the anticipated revenue which will be derived from the rates herein established, together with comparative figures of revenue at the rates charged for the years 1915 and 1916.

**TABLE VIII.**  
**Revenue to Be Derived From Rates Herein Established.**

	At rates charged		From rates herein established	Comparative cost of service from Table VI
	1915	1916		
Revenue from sales of gas-----	\$3,953,927	\$3,684,056	\$3,851,492	\$3,847,847
Municipal street lighting revenue-----	183,001	193,281	*193,281	208,001
Revenue from commercial arc rentals---	38,883	32,253	*32,253	66,243
Total revenue -----	\$4,175,811	\$3,909,590	\$4,077,026	\$4,122,091

\*Actual revenues for year 1916 from company's records, no rates having been established herein for municipal street lighting or for rental of commercial arcs.

In our opinion, the revenue shown in Table VIII will yield to the company a return of 8 per cent on the rate base herein used, which rate base is the fair value of the property now used and useful in supplying gas to the inhabitants of the city and county of San Francisco.

We submit the following form of order:

#### ORDER.

Public hearings having been held in the above-entitled proceeding, briefs having been filed, the proceeding having been submitted and being now ready for decision, the Railroad Commission hereby finds as a fact that the rates charged by Pacific Gas and Electric Company for gas sold to the inhabitants of the city and county of San Francisco are unjust and unreasonable in so far as they differ from the rates herein established and that the rates herein established are just and reasonable rates.

Basing its order on the foregoing finding of fact and on the other findings of fact contained in the opinion which precedes this order,

*It is hereby ordered* that Pacific Gas and Electric Company shall, within twenty (20) days from the date of this order, file with the Railroad Commission, and thereafter charge the following rates for gas sold by it to the inhabitants of the city and county of San Francisco:

Applicable to all classes of consumers in the city and county of San Francisco.

For the first 10,000 cu. ft. per meter per month, 85 cents per 1,000 cu. ft.

For the next 20,000 cu. ft. per meter per month, 80 cents per 1,000 cu. ft.

For the next 40,000 cu. ft. per meter per month, 75 cents per 1,000 cu. ft.

For the next 80,000 cu. ft. per meter per month, 70 cents per 1,000 cu. ft.

For the next 150,000 cu. ft. per meter per month, 65 cents per 1,000 cu. ft.

For all over 300,000 cu. ft. per meter per month, 60 cents per 1,000 cu. ft.

Minimum monthly bill per meter for domestic service for flats and apartments where four (4) or more meters are continuously served in one location and on one service-----35 cents

Minimum monthly bill per meter for domestic and commercial service other than the above-----50 cents

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the state of California.

Dated at San Francisco, California, this eighth day of October, 1917.

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DECISION No. 4737.

IN THE MATTER OF THE APPLICATION OF COAST COUNTIES GAS AND ELECTRIC COMPANY FOR PERMISSION TO EXERCISE THE RIGHTS GRANTED TO IT UNDER ORDINANCE NO. 290 OF THE CITY OF GILROY.

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Application No. 2983.

*Decided October 10, 1917.*

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BY THE COMMISSION.

**SUPPLEMENTAL ORDER.**

It is hereby declared that Coast Counties Gas and Electric Company has filed, in accordance with the order heretofore made on the twenty-ninth day of August, 1917, a stipulation satisfactory to the commission declaring that Coast Counties Gas and Electric Company, its successors or assigns, will never claim before the Railroad Commission or any other public authority any value for the rights and privileges granted by Ordinance No. 290 of the board of trustees of the city of Gilroy, for the reason that no expense was incurred by Coast Counties Gas and Electric Company in obtaining said rights and privileges.

Dated at San Francisco, California, this tenth day of October, 1917.

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DECISION No. 4738.

IN THE MATTER OF THE APPLICATION OF DIAMOND AND CALDOR RAILWAY FOR AN ORDER AUTHORIZING THE ISSUE AND SALE OF NINETY THOUSAND DOLLARS FIRST MORTGAGE BONDS.

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Application No. 2765.

*Decided October 10, 1917.*

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BY THE COMMISSION.

**FIRST SUPPLEMENTAL ORDER.**

Whereas the Railroad Commission, by Decision No. 4121, dated February 21, 1917, authorized Diamond and Caldor Railway to issue, at not less than 90 per cent of their face value plus accrued interest, bonds in the amount of \$90,000.00, and use \$15,000.00 of the proceeds



to purchase a locomotive, \$24,970.00 to purchase 22 logging cars and the remainder to liquidate in part a \$50,000.00 indebtedness due the California Door Company; and

Whereas applicant now reports that it has sold its bonds at par; that it was able to handle its 1917 traffic by the acquisition of 16 logging cars; that it is inadvisable, because of the high cost of equipment and uncertainty of delivery, to purchase any additional cars at this time, and that it has on hand \$6,411.02 of the proceeds of the bonds; and

Whereas applicant requests authority to use said \$6,411.02 to liquidate indebtedness due the California Door Company; and good cause appearing,

*It is hereby ordered* that the order in Decision No. 4121, dated February 21, 1917, be and the same is hereby amended so as to permit Diamond and Caldor Railway to use said \$6,411.02 of the proceeds from the sale of its bonds to liquidate indebtedness due the California Door Company.

Dated at San Francisco, California, this tenth day of October, 1917.

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DECISION No. 4739.

IN THE MATTER OF THE APPLICATION OF FRANCES M. BLAKE FOR PERMISSION TO CONSTRUCT A WHARF AND WAREHOUSE AT BLAKE'S LANDING ON TOMALES BAY, MARIN COUNTY, CALIFORNIA.

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Application No. 2853.

*Decided October 10, 1917.*

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BY THE COMMISSION.

**SUPPLEMENTAL ORDER.**

Frances M. Blake having filed with the Railroad Commission a stipulation as required by the order of the commission made on April 26, 1917, in Decision No. 4271, which stipulation declares the cost of said wharf franchise to have been the sum of \$100.00, and said stipulation being in form satisfactory to the Commission,

*It is hereby ordered* that the above-described application be and it is hereby granted, and the authority granted by the board of supervisors of Marin County to applicant by its resolution of April 2, 1917, is hereby approved.

Dated at San Francisco, California, this tenth day of October, 1917.

## DECISION No. 4740.

IN THE MATTER OF THE APPLICATION OF VALLEY TELEPHONE COMPANY FOR AUTHORITY TO ISSUE STOCK AND REFUND CERTAIN OBLIGATIONS.

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Application No. 1849.

*Decided October 10, 1917.*

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BY THE COMMISSION.

**FIRST SUPPLEMENTAL ORDER.**

Whereas the Railroad Commission by Decision No. 3174, dated March 22, 1916 (Vol. 9, Opinions and Orders of the Railroad Commission of California, p. 395), authorized Valley Telephone Company to issue to Farmers and Merchants Bank of Imperial two one-year six-months 10 per cent notes, one for \$1,500.00, the other for \$1,000.00; and

Whereas applicant now requests authority to issue to said Farmers and Merchants Bank of Imperial a two-year note for \$2,500.00 in lieu of two notes; and good cause appearing,

*It is hereby ordered* that Valley Telephone Company be and it is hereby granted authority to issue to Farmers and Merchants Bank of Imperial its two-year 10 per cent note for \$2,500.00 to refund the indebtedness represented by the two notes authorized to be issued by Decision No. 3174, dated March 22, 1916. Applicant may issue said note for a term of less than two years and renew said note from time to time provided that the combined periods of any note so issued and its renewal does not extend beyond two years from the date of this order.

*It is hereby further ordered* that the order in Decision No. 3174, dated March 22, 1916, shall remain in full force and effect except as modified by the first supplemental order.

Dated at San Francisco, California, this tenth day of October, 1917.

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DECISION No. 4741.

IN THE MATTER OF THE APPLICATION OF THE NEVADA-CALIFORNIA-OREGON RAILWAY FOR AN ORDER AUTHORIZING THE CREATION OF A BONDED INDEBTEDNESS OF TWO MILLION TWO HUNDRED THOUSAND DOLLARS AND FOR AN ORDER AUTHORIZING THE ISSUE OF ONE MILLION DOLLARS FACE VALUE OF BONDS.

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Application No. 2814.

*Decided October 10, 1917.*

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BY THE COMMISSION.

**SECOND SUPPLEMENTAL ORDER.**

Whereas the Railroad Commission by its order in Decision No. 4287, dated May 2, 1917, required Nevada-California-Oregon Railway to

deposit \$60,600.00 of the proceeds from the sale of part of its properties to The Western Pacific Railroad Company in trust to pay interest on any or all of the \$606,000.00 of its bonded indebtedness which may not be paid off or retired prior to May 1, 1919, provided that any part of said \$60,600.00 which may not be required for such purpose shall be returned to applicant's treasury to be disbursed thereafter only for such purposes as shall by supplemental order be approved by the Railroad Commission; and

Whereas applicant in its second supplemental application reports that it has redeemed \$602,000.00 of said \$606,000.00 of bonds and that \$60,075.00 of said \$60,600.00 deposited to pay interest on said \$606,000.00 of bonds has been returned to its treasury; and

Whereas applicant desires to use said \$60,075.00 to reimburse its treasury for capital expenditures on its line north of Hackstaff, California, said capital expenditures for which applicant's treasury has not been reimbursed being reported at \$176,218.37; and good cause appearing,

*It is hereby ordered* that Nevada-California-Oregon Railway be and it is hereby granted authority to use \$60,075.00 of the proceeds from the sale of part of its properties to The Western Pacific Railroad Company to reimburse its treasury for capital expenditures on its line north of Hackstaff, California.

*It is hereby further ordered* that the order in Decision No. 4287, dated May 2, 1917, as amended, shall remain in full force and effect, except as modified by this second supplemental order.

Dated at San Francisco, California, this tenth day of October, 1917.

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Decision No. 4742, grade crossing; not printed. See end of volume.

DECISION No. 4743.

IN THE MATTER OF THE APPLICATION OF THE PETALUMA AND SANTA ROSA RAILWAY COMPANY FOR AN ORDER AUTHORIZING AN INCREASE IN PASSENGER FARES AND FREIGHT RATES AND FOR AUTHORITY TO ALTER CERTAIN RULES AND REGULATIONS IN CLASSIFICATIONS SO AS TO BRING ABOUT INCREASES IN FARES AND RATES.

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Application No. 2096.

*Decided October 11, 1917.*

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The introduction of exhibits showing fluctuations in the prices of various commodities by protestants in an application to increase rates can have no bearing on the rates which the transportation company should be permitted to charge; the commission's only consideration in such matters is whether or not the proposed increases are justified and reasonable.

The mere fact that a certain schedule of rates have been in effect for a considerable period of time does not warrant the assumption that such schedule should not be changed; different conditions may so affect transportation costs as to make advances in long standing rates a necessity.

Applicant is justified in canceling its rule providing for free return of empties as practically all carriers within the state make some charge for such service.

In establishing an increased schedule of rates the commission will not permit a heavy percentage of such increases to affect one particular locality, especially when the changed condition necessitating the increases affect the entire property of the carrier.

Applicant authorized to put into effect within thirty days proposed increases in passenger and freight rates, provided that the proposed class rates between San Francisco and Petaluma shall be amended to conform with the schedule established by the commission.

*Edwin T. McMurray*, for Petaluma and Santa Rosa Railway Company.

*Stanley Moore*, for Northwestern Pacific Railroad Company.

*Seth Mann*, for San Francisco Chamber of Commerce.

*Sapiro, Noylan & Ehrlich*, for the Poultry Producers of Central California.

LOVELAND, *Commissioner*.

#### OPINION.

This is an application by the Petaluma and Santa Rosa Railway Company for an order, under section 63 of the Public Utilities Act, to increase certain passenger fares and freight rates as set forth in Exhibit A, attached to and made a part of the application.

The changes are great in number, therefore it is impossible to set them forth in detail. It is proposed to cancel all minimum passenger fares of 5 cents except within the corporate limits of Santa Rosa, Petaluma and Sebastopol and substitute therefor a 10 cent minimum charge; to discontinue the sale of scrip books containing \$5.00 worth of transportation now sold for \$4.25 and to increase the price of the \$10.00 scrip book from \$7.50 to \$9.00.

As to freight, it is proposed to increase practically all class rates, eliminate certain commodity rates, allowing class rates to apply, increase other commodity rates, cancel the less-than-carload commodity rates on eggs between San Francisco and Petaluma, allowing the second-class rates to apply, as per Western Classification, and to discontinue entirely the free return of empty carriers or packages, such as beer kegs, beer bottles, egg cases, poultry coops, fruit boxes and other carriers in the same class.

In justification of the application petitioner sets forth that the income derived from operations is not sufficient to meet current operating expenses, interest on outstanding obligations and to properly maintain its service and property; that the rates when established were made extremely low on account of competition and under the theory that the low rates would result in an increase in population which would produce

sufficient traffic—freight and passenger—to make the operation of the company profitable.

It further alleges that the freight service is of high class and equal to expedited express; that it maintains 47 freight stops within a distance of 25 miles, or an average of one station for every seven-tenths of a mile; that the produce of the farmers is collected at these numerous freight stations as late as five o'clock in the afternoon and delivered to the San Francisco dealers early the next morning; that this class of service involves extraordinary expense and can not be profitably furnished on the basis of present freight rates.

All operating costs are alleged to have greatly increased during the past few years, especially the cost of operating boats between San Francisco and Petaluma; that when the rates now in effect were established two steamers operated at an annual expense of \$36,000.00 for labor and fuel alone, while today the items for the same two boats amount to \$60,000.00 per year, with prospects of further increases in the immediate future, and that the company's fuel oil contract of \$1.05 per barrel expires December 31, 1917, and applicant avers the increase in the cost of fuel oil will be 50 per cent.

In conclusion, it is further alleged that the most rigid economy has been practiced during the past years and there is a necessity for expending approximately \$250,000.00 within the very near future on betterments, additions and replacements; that the renewals and betterments can not be further postponed and the increases suggested are absolutely necessary if the service is to be continued in its present efficient manner.

There were attached to the application three exhibits, the first setting forth the present and the proposed rates—both passenger and freight; the second showing the revenue under the present rates during the year 1914 and what revenue would have been received had the proposed rates been applied to the same traffic; the third exhibit is a financial statement, reviewing operations of the company for the years 1904 to and including 1916. It is on this exhibit, showing the financial situation, that applicant appeared to lay particular stress. I have given careful consideration to this testimony and have reviewed the physical and financial history of the company from its incorporation to the present time.

It appears that the company acquired its first properties in 1903, which consisted of two small horse railways in Petaluma and Santa Rosa, franchises in Sonoma County, Petaluma and Sebastopol, some rights of way and options, a stone quarry and some real estate. No details of the properties acquired are available. For this property there was paid \$168,000.00 in cash and a block of common stock which was in the treasury of the new company. Since 1903 the company has sold

first and second mortgage bonds, a number of shares of its capital stock, and the stockholders have paid into the treasury an assessment on the common stock which appears to have netted the company approximately \$100,000.00.

I have made an attempt to determine as nearly as possible from the incomplete records of applicant how much actual cash, or equivalent of cash, has been put into this property. Actual figures can not be had because of the fact that in the San Francisco fire in 1906 most of the company's records were lost. I am satisfied, however, that the following figures are approximately correct:

Cash paid for original properties, including nonoperative property	\$168,000 00
Total par value of outstanding first mortgage bonds-----	698,000 00
Received from sale of stock-----	36,000 00
Total par value of outstanding second mortgage bonds-----	250,000 00
Stock assessment of 1907-----	100,000 00
Borrowed on notes-----	83,600 00
Total -----	\$1,335,600 00

It was stipulated during the hearings in this application that the commission's valuation of this property (Decision No. 2348) should be considered in evidence and the estimated investment figure should be compared with the valuation as found by the commission. The commission found the reproduction cost less depreciation, which figure, I believe, most nearly represents the value of the railroad as of June 30, 1912, to be \$1,315,382.50. Additions and betterments since June 30, 1912, according to the company's statements to this commission, amounted to \$64,021.03, so that the present value of the road as of December 31, 1916, may be considered to be approximately \$1,380,000.00. It would seem, therefore, that the commission's valuation exceeds the estimated amount of money put into the property by approximately \$44,400.00. Whatever increase there is in property values over actual investment has come about through investment of net earnings. The company has consistently followed the policy of putting all available earnings back into the property rather than paying dividends—a policy which to me seems eminently sound. The company has also decreased its bonded indebtedness out of earnings from the original outstanding issue of \$948,000.00 to \$872,000.00, a decrease of \$76,000.00, and it has set aside a depreciation reserve which, on December 31, 1916, amounted to \$81,625.06.

The total accumulated corporate surplus of the applicant on December 31, 1916, was \$70,906.41.

From these facts it appears to me that the financial condition of the applicant is not unsatisfactory; and if the determination of this case rested on this consideration alone I should not consider myself in a

position to recommend that the increases in rates sought by applicant be granted. I believe, nevertheless, that the conditions confronting the applicant at the present time, and which will confront it in the immediate future, must be given proper consideration by the commission.

As illustrative of the present situation, the total revenue from passenger and freight is set forth in the following table, the first four years being taken from annual reports, while the seven months and estimated results for the twelve months of 1917 are compiled from applicant's Exhibit No. 3.

Year ending—	Passenger revenue	Freight revenue
June 30, 1914.....	\$99,349 57	\$196,302 43
June 30, 1915.....	95,462 85	186,624 33
June 30, 1916.....	84,687 12	180,899 37
December 31, 1916.....	78,614 75	187,831 53
Seven months ending July 31, 1917.....	43,581 39	110,424 04
Twelve months to December 31, 1917 (estimated).....	74,710 92	189,298 32

From this table it will be noted that the passenger revenue has steadily decreased from \$99,349.57 for the fiscal year 1914, to \$78,614.75 for the calendar year 1916, with an estimated total for 1917, based on actual figures for the first seven months of approximately \$74,710.92. This shows a reduction in passenger revenue of \$24,638.65 within a period of five years. The testimony indicates that this loss of revenue is attributable to automobile competition, of both the private and public conveyances.

It is proposed to advance the minimum passenger fare outside of corporate city limits from 5 cents to 10 cents; to cancel entirely the \$5.00 scrip transportation book now sold for \$4.25 and to increase the \$10.00 book from \$7.50 to \$9.00. I do not consider these changes unreasonable, as the record contains testimony to the effect that present fares do not give applicant a just return for the service rendered. This part of the application will be granted.

The freight revenue in 1914 was \$196,302.43, which dropped to \$180,899.37 in 1916 and is estimated at \$189,298.32 for the calendar year 1917. It will thus be seen that applicant can expect no relief from increased tonnage, which has remained almost constant for the past four years.

The testimony conclusively shows that there have been radical advances in the price of materials and cost of labor. The situation with respect to increases in the cost of labor used in the operation of this company's steamers is illustrated by Exhibit No. 1, set forth below:

*Comparative Statement of Cost for Operation of Steamers.*

	1904	1914	1917
Captain, per month.....	\$115 00	\$150 00	\$165 00
Pilot, per month.....	75 00	125 00	137 50
Chief engineer, per month.....	110 00	125 00	137 50
Second engineer, per month.....	90 00	100 00	110 00
Two firemen, per month.....	90 00	110 00	120 00
Purser, per month.....	25 00	70 00	70 00
Watchman, per month.....	60 00	60 00	70 00
Nine deckhands, per month.....	315 00	450 00	495 00
Cook, per month.....	65 00	65 00	70 00
Two assistant cooks, per month.....	60 00	60 00	60 00
Overtime, per month.....		93 00	102 00
1,710 meals at 13 cents.....	222 00		
1,710 meals at 22 cents.....		376 00	
1,710 meals at 28 cents.....			478 80
<b>Cost of one boat per month.....</b>	<b>\$1,227 00</b>	<b>\$1,784 00</b>	<b>\$2,015 80</b>
<b>Cost of one boat per year.....</b>	<b>\$14,724 00</b>	<b>\$21,408 00</b>	<b>\$24,189 60</b>
<b>Fuel for one year, 6,000 barrels.....</b>	<b>4,140 00</b>	<b>4,500 00</b>	<b>6,300 00</b>
<b>Total cost for one boat per year.....</b>	<b>\$18,864 00</b>	<b>\$25,908 00</b>	<b>\$30,489 60</b>
<b>Percentage in increase over 1904.....</b>		<b>37%</b>	<b>61%</b>
<b>Deckhands, per month.....</b>	<b>*\$35 00</b>	<b>†\$50 00</b>	<b>†\$55 00</b>

\*No overtime.

†Overtime 50 cents per hour.

Another exhibit furnishes the increased cost of steamer operations for August, 1917, compared with August, 1916. If this ratio remains constant for the twelve months there is a total added expense of \$11,408.04.

The exhibit is as follows:

	August, 1917	
	Amount	Increase or decrease
Wages of officers.....	\$1,379 00	\$129 00
Wages of firemen and deckhands.....	1,679 35	157 75
Wages of cabin employees.....	251 30	1 30
Wages overtime.....	565 40	174 65
Fuel oil and water.....	1,047 13	269 26
Deck supplies.....	17 43	*11 36
Cabin supplies (provisions).....	1,012 72	198 64
Rent and dockage.....	661 97	31 43
<b>Totals.....</b>	<b>\$6,614 30</b>	<b>\$950 67</b>

\*Decrease.

The steamer Gold has just been overhauled at an expense of approximately \$6,000.00, and there is testimony to the effect that the vessel must, within the next two or three years, be entirely abandoned. This will mean an expenditure of from \$60,000.00 to \$70,000.00 for a new boat.



Exhibit No. 2 enters into the details of increased costs of materials, giving the actual figures for the year 1916 compared with estimated expenses for the year 1917, as follows:

Maintenance of way and structures-----	\$1,963 31	\$3,334 73
Maintenance of equipment-----	4,515 31	6,429 95
Transportation—Rail lines.		
Wages of conductors and motormen-----	25,441 30	27,212 70
Lubricating oils -----	85 98	103 26
Miscellaneous -----	248 45	273 29
Signal and coal oil-----	22 00	27 77
	<hr/>	<hr/>
	\$25,797 73	\$27,617 02
Transportation—Water lines.		
Wages of officers, firemen and deckhands-----	\$35,699 35	\$39,269 26
Fuel oil -----	10,444 40	13,460 60
Provisions -----	8,676 75	11,276 75
Miscellaneous -----	375 09	476 33
	<hr/>	<hr/>
	\$55,195 59	\$64,482 96
General.		
Compensation insurance -----	\$5,059 10	\$5,352 80
Stationery and printing-----	1,099 06	1,758 50
	<hr/>	<hr/>
	\$6,158 16	\$7,111 30
	<hr/>	<hr/>
Grand total-----	\$93,630 10	\$108,975 96

As to materials used in maintenance of way and structure the exhibit sets forth that there will be a 100 per cent increase in track, bolts, washers, rail bonds, battery renewals, wire and telephone parts, wire stands, hardware and plumbing and that the cost of other articles used in this department have increased from 30 to 150 per cent. This exhibit also directs attention to the fact that street repaving in Santa Rosa, now under way, will cost the company \$2,500.00 and that the private canal at Petaluma must be dredged within the next few months at a cost of approximately \$3,000.00.

The Poultry Producers Corporation protested against the proposed increases, and particularly to the freight rates applying on grain, poultry foods and eggs. They also objected to the cancellation of item in the tariff providing for the free return of empty carriers, such as egg cases, coops and boxes.

The attorney of the San Francisco Chamber of Commerce attended the hearings, but introduced no testimony or exhibits and made no objections to the application.

The testimony of protestant's witnesses was devoted principally to showing the difficulties under which the poultry producers labor. Three exhibits were introduced, giving in detail the fluctuations in the price of eggs, poultry, wheat, barley, corn and other feeds since the year 1912. While these exhibits are very comprehensive and interesting,

they have no bearing upon the rates which a transportation company would be permitted to charge.

We might here set forth the high and low prices on all commodities shown in the exhibits for the five and one-half years, but the information would be of no value in this proceeding, as the only question for this commission to determine is whether or not the proposed rates are reasonable.

The fact that the freight rates between San Francisco and Petaluma, to which objection was particularly directed by protestant, have been in effect for a long term of years, does not warrant the presumption that these rates should not be changed if, under the new and different conditions, they are found to be unremunerative. The observance of such theory would render impossible the advancing of any rates of long standing, regardless of their being found noncompensatory.

The greatest increase in revenue from the proposed rates will come from the operation of applicant's boats on local traffic moving between San Francisco and Petaluma, and this will be obtained principally from the operation of applicant's boats on local traffic moving between San Francisco and Petaluma, and this will be obtained principally

The present and proposed rates, stated in cents per 100 pounds, are as follows:

	1	2	3	4	5	A	B	C	D	E
Present .....	11	09	07	05	05	05	05	05	05	05
Proposed .....	17	14	11	10	09	09	08	07	06	05
Increase .....	06	05	04	05	04	04	03	02	01	00

Class rates of other boat lines operating within this state performing similar but less arduous service, are set forth below. The rates are in cents per 100 pounds:

	1	2	3	4	5	A	B	C	D	E
Napa Transportation Co.— San Francisco—Napa, 48 miles.....	15	13	11	10	9	9	8	7	6	5
Southern Pacific Co.— San Francisco—Benicia, 30 miles.....	12	10	8	7	6	6	6	6	5½	5½
Distance scale— 25 miles and over—applicable to intermediate traffic .....	22	20	17	15	12	12	11	8½	8	8
California Navigation and Improvement Co.— San Francisco—Stockton, 103 miles...	10	10	9	9	7	7	6	5½	5½	5½

The subjoined table shows rates in effect via rail carriers between points approximately forty miles distant.

The rates are set forth in cents per 100 pounds:

	1	2	3	4	5	A	B	C	D	E
San Joaquin Valley scale, established by this commission—										
30-40 miles -----	15	13	12	10	9	9	6	5	5	4
40-50 miles -----	18	16	14	12	11	11	8	6	5	5
Southern Pacific Co.—										
San Jose—Chittenden, 41 miles-----	17	16	14	13	12	12	10	9½	8½	8½
Los Angeles—San Pedro, 25 miles-----	12	11	10	8	5	5	5	4	4	3½
The Atchison, Topeka and Santa Fe Railway—										
San Diego—Oceanside, 41 miles-----	22	20	18	16	14	14	13	12	12	9

*State Scales.*

	1	2	3	4	5	A	B	C	D	E
Oregon—										
Yamhill division, not over 40 miles -----	28.0	24.0	20.0	17.0	14.0	14.0	11.0	8.0	7.0	6.0
Iowa—										
Maximum rate, 40 miles-----	18.8	16.0	12.5	9.4	6.6	6.6	6.6	5.6	4.7	3.8
South Dakota—										
Maximum rate, 40 miles-----	26.1	21.6	17.6	13.0	10.4	10.4	9.5	7.7	6.8	5.4
Minnesota—										
Distance scale, 40 miles-----	18.9	15.7	12.6	9.4	7.5	8.5	6.7	5.7	4.7	3.8
Oklahoma—										
Distance scale, 40 miles-----	25.0	20.8	17.0	14.2	12.2	11.5	9.5	8.0	6.6	4.9
Illinois—										
40 miles and over 35 miles-----	21.1	17.3	14.3	10.5	8.4	8.0	7.8	6.5	5.0	4.5

It is alleged that the expenses of operating the boats between San Francisco and Petaluma have more than doubled since rates now in use were first established and that the revenue realized from this traffic does not give a return commensurate with the present cost of operation.

The proposed class rates between San Francisco and Petaluma do not appear excessive when compared with some of the rates in the preceding tables. With the exception of first and second class they are the same as those in effect between San Francisco and Napa via boat line and much lower than short haul rates on the Sacramento River. They differ but little from the scale this commission established in the San Joaquin and Sacramento valleys and are much lower than mileage rates put into effect by commissions in the states of Oregon, Iowa, South Dakota, Minnesota, Oklahoma and Illinois. The rates are high, however, when contrasted with the scale of the California Navigation and Improvement Company between San Francisco and Stockton, and while conditions of operation and volume of tonnage materially differ, which would not justify the San Francisco-Stockton scale between San Francisco and Petaluma, applicant has not justified the 17 cent scale. Other

class rates do not appear out of line for a railroad having a short mileage and handling only a limited tonnage.

In considering a general rate adjustment the issue to be determined is whether proposed rates are just and reasonable and this commission will not delay granting additional revenue when the facts have been fully determined.

The permission sought to cancel the provision for free return of empty carriers, such as fruit boxes, egg cases and cooperage, if granted, will make this traffic subject to Exceptions to Western Classification, or 15 per cent of class rate applicable to the new package.

Practically all rail and boat carriers within this state apply the 15 per cent basis and the proposed changes would have the effect of making the practice uniform.

The custom of making some sort of a charge for returning empties is well established and requires no detailed justification. This part of the application will be granted.

Applicant urges its poor financial condition and need of additional revenue as a justification for the increases in rates, pointing out that it has never paid a dividend; that its second mortgage bonds for \$250,000.00, issued in 1905 for a ten-year period, have not been paid or refunded, neither have the sinking fund obligations been met since 1914. Reference is made to the increased cost of operations resulting from increases in wages and the price of fuel and materials. The net income of the road has steadily declined during the past four years; in 1913 it was \$52,167.71, 1914—\$49,685.17, 1915—\$21,597.91 and 1916—\$10,916.43. This change has been brought about by reductions in the volume of traffic—both passenger and freight—as heretofore shown, without any corresponding saving in operating expenses.

The property has been efficiently and honestly managed and the entire evidence goes to prove that the increased expenditures for operations are due to greater costs of materials, labor and taxes which can not be offset by corresponding reductions in operating expenses, or by the postponement of necessary maintenance of roadbed, structures and equipment.

However, the financial condition of the company, due to its careful management during the past few years, is not incurable, although it is clear that difficulties will develop in the very near future unless revenues are augmented and new money made available for necessary betterments.

A large part of applicant's revenue is derived from the poultry industry and since the commencement of its operations special inducements have always been offered to encourage the investment of capital in this line of business at Petaluma. The total increased freight for the entire line, per annum, under the proposed rates, is \$30,306.38, of which

approximately \$20,000.00 would come from the Petaluma tonnage. This drastic increase would have a serious effect on the poultry industry and disturb a rate situation of long standing.

While the costs of operating the boats is shown to have greatly increased, no satisfactory evidence was introduced making a segregation of these costs as between strictly boat tonnage destined to or originating at Petaluma from that handled for main line rail points. It therefore follows that Petaluma-San Francisco tonnage should not arbitrarily be required to carry 70 per cent of the necessities of a changed condition affecting the entire property.

Upon the whole record I find and conclude that existing rates are unjust and unreasonable and the application will be granted, with the exception of the class rates between San Francisco and Petaluma; and as to these latter rates I find the following to be just and reasonable:

*Class Rates.*

	1	2	3	4	5	A	B	C	D	E
Between San Francisco and Petaluma...	15	12	9	9	8	8	7	6	5	5

I submit the following form of order:

**ORDER.**

The Petaluma and Santa Rosa Railway Company having applied to this commission for permission to increase certain passenger and freight rates and a regular hearing having been held and the commission being fully apprised in the premises,

*It is hereby ordered* that the Petaluma and Santa Rosa Railway Company be and is hereby authorized to publish and file in tariffs, to become effective within thirty (30) days from the date of this order, the following class rates:

	1	2	3	4	5	A	B	C	D	E
Between San Francisco and Petaluma...	15	12	9	9	8	8	7	6	5	5

and to otherwise amend and modify its passenger and freight tariffs as set forth in Exhibit A, attached to and made a part of the application and referred to in the opinion which precedes this order.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the state of California.

Dated at San Francisco, California, this eleventh day of October, 1917.

## DECISION No. 4744.

IN THE MATTER OF THE APPLICATION OF WESTERN PACIFIC RAILROAD COMPANY FOR AN ORDER PERMITTING IT TO CONSTRUCT, MAINTAIN AND OPERATE ITS LINE OF RAILROAD AT GRADE, FIRST, ACROSS CERTAIN PUBLIC ROADS, HIGHWAYS AND STREETS IN THE COUNTIES OF ALAMEDA AND SANTA CLARA AND IN THE CITY OF SAN JOSE; SECOND, ACROSS CERTAIN TRACKS OF THE SOUTHERN PACIFIC COMPANY IN THE COUNTIES OF ALAMEDA AND SANTA CLARA; THIRD, ACROSS CERTAIN TRACKS OF PENINSULAR RAILWAY COMPANY, AND FOURTH, ACROSS CERTAIN TRACKS OF SAN JOSE RAILROADS IN THE COUNTY OF SANTA CLARA AND IN THE CITY OF SAN JOSE.

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Application No. 3139.

*Decided October 11, 1917.*

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In an application for permission by a railroad company to construct grade crossings, this commission has no power to hinder such construction on the sole grounds that the construction of the line of railway will be injurious to certain property owners along the proposed right of way.

The commission will not delay action upon an application to construct grade crossings upon petition of a city which files a complaint subsequent to the filing of the application, it being held that as the application was filed first it is entitled to consideration on its merits alone irrespective of what may develop in connection with the complaint.

Applicant granted permission to construct some forty-three crossings at grade across roads, streets and highways, of which number twenty-two shall be protected by automatic flagmen to be installed at the expense of applicant, two to be protected by human flagmen and two by crossing gates, also to cross the tracks of other carriers at eleven different points, three of which crossings shall be protected by first-class interlocking plants.

*A. R. Baldwin, Allan P. Matthew and E. M. Rea, for Applicant.*

*George D. Squires, for Southern Pacific Company.*

*Louis Oneal and Wm. F. James, for Peninsular Railway Company and San Jose Railroads.*

*John Roll, Henry Ayer and Irving L. Ryder, for Board of Supervisors, Santa Clara County.*

*Earl Lamb and T. H. Reed, for City Council of San Jose.*

*T. P. Wittschen and P. A. Haviland, for Board of Supervisors of Alameda County.*

*L. D. Bohnett, J. E. Curtis, E. A. Wilson and Grant R. Bennett, for the Willow Glen Improvement Club and residents of Willows.*

*Paul W. Dcc, for the Traffic Bureau of San Jose Chamber of Commerce.*

*Jos. H. Bone, E. E. Chase and Jos. T. Brooks, for the San Jose Chamber of Commerce.*

*S. F. Leib, in propria persona, and other owners of the Imperial Walnut Orchard.*

*W. L. Clark, for State Highway Commission.*

DEVLIN and GORDON, *Commissioners*.

**OPINION.**

In this application the Western Pacific Railroad Company asks permission to construct its track across the public highways and railroads on the line of its extension from Niles to San Jose. Forty-seven streets and highways are to be crossed, and eleven single and double tracks of steam, electric interurban and street railroads. Eight of the proposed highway crossings are in Alameda County, twenty-five in Santa Clara County, eleven within the incorporated city of San Jose, and three are partly within the city of San Jose and partly within unincorporated territory in Santa Clara County. Three of the proposed crossings are with state highways.

Two hearings were held upon this application. At the first hearing the engineer of the Western Pacific testified concerning the conditions at the various crossings and the methods he thought should be employed to protect them. After that hearing the commission's engineering department made a study of the situation and reported to the commission its ideas concerning the protection which should be installed. A copy of this report was sent to each of the interested parties prior to the second hearing. Either at the first or second hearing the engineers and representatives of all the interested parties, including the commission's engineer, testified, and various schemes of protection were discussed. No great difference in opinion obtained as to the methods to be employed. Grade separations were proposed for several crossings in San Jose in the course of the two hearings, but those who suggested them had given no consideration to the details of the grade separation problem and their testimony was directed merely to the desirability of separating grades at streets with heavy traffic—a matter concerning which there can be no dispute. There are, however, so many difficulties in the way of bringing about grade separations where the country is as level as it is at San Jose, and the streets so close together, that the traffic over the Western Pacific and the city streets will not justify the expense involved at this time.

In this opinion it appears to us to be unnecessary to consider in detail the conditions surrounding the crossings, to discuss the various methods of protection suggested, or to give the reasons which have led us to require the several protective installations set forth in the following order. The reports of traffic, the reports of our own engineers, and the testimony have all been carefully weighed; each crossing was examined by a member of the commission; the protection ordered has been decided upon after due consideration; and it seems unnecessary to extend this opinion by a discussion of these details.

The city of San Jose has granted the Western Pacific Company a franchise to construct its track across the various streets which lie

within the limits of the city. At the time the franchise was granted, however, either the plans of the Western Pacific were not entirely known or the city failed to understand them as it now understands them, for its present attitude toward the construction of the Western Pacific in the city is not entirely in line with the action of the city council in unanimously granting the railroad the franchise.

The line of the Western Pacific enters the city limits of San Jose from the north near McKee street; in a southerly direction traverses the portion of the city east of Coyote River; leaves the city again at William street, to enter it on the south side near the proposed crossing of Keyes street; and again leaves it on the southerly limits of the city near the intersection of the south line of the city with the main line tracks of the Southern Pacific Company. From near this point a spur track will be constructed on and along Fifth street to Virginia street. After the city limits are crossed below Keyes street the line follows a westerly course for some distance, then a northerly course to its proposed terminus at the Alameda. At no point on this line are the limits of the city entered and at no point are they very far removed from the city limits. The line, in other words, taken as a whole, encircles the city on three sides, on two of which it is entirely in unincorporated territory in the county of Santa Clara.

The city takes the attitude that inasmuch as the territory adjacent to the city, but now in the county, will eventually become part of the city of San Jose, and the Western Pacific's scheme of construction is intimately connected with the solution of its transportation problems, it is interested in the location of this line and the proper protection of the crossings, even though the crossings may now be in the county.

At the first hearing the city desired the application of the Western Pacific be considered in two parts. It was testified at the hearing that it was the understanding of the city officials that the passenger station would be located somewhere near the crossing of the Western Pacific with the Southern Pacific Company's main line to the east of Monterey road, and as it was familiar with the location of this portion of the line it desired the commission to consider that at this time, postponing consideration of the balance of the line to the westward. The location of the freight station will be at the terminus of the line on the Alameda; representatives of the Western Pacific stated very positively that the lines both to the east and to the west of the Monterey road were part of the same scheme to tap the sources of traffic; and there seems to be no reason why they should not be considered together.

To the west of the city is the Willows District, a highly developed residential section which will be traversed by the railroad. Property owners in this section feel that their property will be greatly damaged by the coming of the railroad, and partly for this reason and partly



because the Southern Pacific Company has secured permission from the commission to build a line through this territory not far from the line of the Western Pacific, the city takes its present attitude in regard to the portion of the line to the west of the Monterey road. Counsel representing the residents of Willows sought an opportunity to show the commission that the public necessity of the railroad, through this section, would not counterbalance the damage to property and the hazard created by its construction. While the commission may and does sincerely sympathize with those who find their property injured by the construction of a railroad in its neighborhood under conditions such as are found herein, it has no power to refuse such construction on those grounds, eminent domain proceedings being provided to dispose of that matter; and as far as the danger attending the construction of the crossings is concerned, while it must be acknowledged that every new grade crossing creates a certain hazard, neither the amount of traffic using the highways in the Willows District nor the physical conditions surrounding the crossings make it impossible for them to be amply and safely protected at grade.

The present attitude of the city toward this whole matter is set forth in Case No. 1151, filed by the city on September 26, between the first and second hearings on this application. This complaint is directed against the Southern Pacific Company and the Western Pacific Railroad Company. In it the commission is asked to suspend the execution of its order in the application of the Southern Pacific Company which was granted by the commission some eighteen months ago; to postpone its decision in the present application, pending a decision in regard to the case; and, after investigating the entire situation, to order the installation of a union passenger depot, the installation of a union freight depot, the reconstruction and joint use of the railroad tracks existing and proposed, and the adequate protection of all crossings. At the final hearing on this application the city requested that a decision be postponed until the case should have been decided.

After careful consideration we believe that this request can not properly be complied with and the requested delay granted. The commission's order in this matter will be permissive only; it will prescribe the manner in which the crossings shall be made, the particular points of crossing and the protection which shall be afforded, all of which questions are pertinent to this application; and it must, of course, be clear that as the Western Pacific is aware of the case referred to, any expenditures made by it will be at its own risk. If Case No. 1152 had been pending at the time the application was filed, it is entirely possible that action on the application would have been delayed until that case was decided, but the application was filed a month before the case and

applicant is entitled to a decision on the merits of its application regardless of proceedings which may have been filed at a later day.

San Jose, as has been indicated, desires to bring about the joint use of all industry tracks within the city, a matter not now properly before the commission in this proceeding but which will be considered when properly presented. The present line of the Southern Pacific would undoubtedly afford ample facilities to care for the traffic of both the Western Pacific and the Southern Pacific for many years to come; but if any construction should be necessary the money should be expended in double tracking the present Southern Pacific line rather than in building an independent one. If this were done no additional right of way would be needed, duplication of investment would be dispensed with, all additional grade crossings would be avoided, and both roads would unquestionably be in a position to operate faster, with greater safety, more economically and more efficiently than if they had independent lines into San Jose. The union depot matter would solve itself, and the city of San Jose, as well as the towns between San Jose and Niles, would be better off, while the shippers would be as well served as if both lines were built.

In their report our engineers recommended the closing of two streets (Owens street and Barnes avenue) in the city of San Jose which are very little used and where they thought crossings could be eliminated without causing inconvenience. The matter was not commented upon by the city but we shall withhold permission to cross these two highways until the railroad company and the city have had an opportunity to get together and see if they can not be dispensed with.

In the application permission is asked to cross Townsend avenue, but the railroad line has since been slightly relocated and the crossing of this avenue eliminated. Applicant also asks permission to cross Twelfth, Eleventh, Humboldt, Archer and Home streets, but as none of these streets have been opened the commission's permission to cross them will be withheld. A crossing at Engineer's Station 276 was added to the original application, from which it was omitted through error. It appears that the crossing with Hervey lane can be eliminated by building a road along the south side of the right of way to connect Hervey lane with Minnesota avenue. This road we shall expect the Western Pacific Company to build and permission will be withheld for the Hervey lane crossing. Nearly the same conditions exist at the proposed crossing of the Niles-Irvington road in Alameda County, but here it will be necessary for the company to build two roads, one on each side of its line, to avoid the crossing.

Applicant has come to no agreement with the railroad companies whose tracks are to be crossed. Permission, however, will be granted to cross all of them at grade, subject to the proper protection being

installed, but in this application we will not undertake to pass upon all the other matters which arise in connection with the crossing of one railroad with another. If the companies at interest fail to agree, the matter can be decided by a supplemental order.

We recommend the following form of order:

**ORDER.**

Western Pacific Railroad Company having applied to the commission for permission to construct its railroad track at grade across certain public roads, highways and streets in the counties of Alameda and Santa Clara, in the city of San Jose, across certain tracks of Southern Pacific Company, the Peninsular Railway Company, and the San Jose Railroads, and it appearing that this application should be granted subject to certain conditions to be hereinafter specified,

*It is hereby ordered* that applicant be and the same hereby is granted permission to construct its track at grade, across the following streets and highways, subject to the conditions hereinafter specified and not otherwise:

*Crossing No. 1*, a public highway known as Morrison road, Alameda County, at Engineer's Station 28 plus 40.

*Crossing No. 2*, county road No. 1670, Alameda County, at Engineer's Station 46 plus 19.

*Crossing No. 3*, county road No. 12, Alameda County, at Engineer's Station 74 plus 18.

*Crossing No. 4*, Mission road, Alameda County, at Engineer's Station 171 plus 35.

*Crossing No. 5*, county road No. 4201, Alameda County, at Engineer's Station 276 plus.

*Crossing No. 6*, state highway, Alameda County, at Engineer's Station 300 plus 71.

*Crossing No. 7*, county road No. 406, Alameda County, at Engineer's Station 357 plus 30.

*Crossing No. 8*, state highway, Santa Clara County, at Engineer's Station 538 plus 02.

*Crossing No. 9*, Calaveras road, Santa Clara County, at Engineer's Station 571 plus 18.

*Crossing No. 10*, Dempsey road, Santa Clara County, at Engineer's Station 652 plus 72.

*Crossing No. 11*, Capital avenue, Santa Clara County, at Engineer's Station 653 plus.

*Crossing No. 12*, Trimble road, Santa Clara County, Engineer's Station 666 plus.

*Crossing No. 13*, Hostetter road, Santa Clara County, at Engineer's Station 739 plus.

*Crossing No. 14*, Lundy road, Santa Clara County, at Engineer's Station 770 plus.

*Crossing No. 15*, Berryessa road, Santa Clara County, at Engineer's Station 502 plus.

*Crossing No. 16*, Maybury road, Santa Clara County, at Engineer's Station 831 plus.

*Crossing No. 17*, McKee road, one-half in the city limits of San Jose.

*Crossing No. 18*, Alum Rock avenue, or Santa Clara street, city of San Jose.

*Crossing No. 19*, Shortridge avenue, city of San Jose.

*Crossing No. 20*, Jefferson street, city of San Jose.

*Crossing No. 21*, Whitton avenue, city of San Jose.

*Crossing No. 22*, Franklin street, one-half in city of San Jose.

*Crossing No. 23*, Twenty-fourth street, city of San Jose.

*Crossing No. 24*, Twenty-third street, city of San Jose.

*Crossing No. 25*, Williams street, one-half in city of San Jose.

*Crossing No. 26*, Keyes street, city of San Jose.

*Crossing No. 27*, Keyes street, city of San Jose. Crossing of Fifth street spur.

*Crossing No. 28*, Martha street, city of San Jose. Crossing of Fifth street spur.

*Crossing No. 29*, Monterey road or First street, Santa Clara County.

*Crossing No. 30*, Pomona avenue, county of Santa Clara.

*Crossing No. 31*, Almaden road, Santa Clara County.

*Crossing No. 32*, Minnesota avenue, Santa Clara County.

*Crossing No. 33*, Bird avenue, Santa Clara County.

*Crossing No. 34*, Willow street, Santa Clara County.

*Crossing No. 35*, Broadway avenue, Santa Clara County.

*Crossing No. 36*, Coe avenue, Santa Clara County.

*Crossing No. 37*, Sunol street, Santa Clara County.

*Crossing No. 38*, Saveker street, Santa Clara County.

*Crossing No. 39*, San Salvador street, Santa Clara County.

*Crossing No. 40*, Sunol street, Santa Clara County.

*Crossing No. 41*, San Carlos street, Santa Clara County.

*Crossing No. 42*, Park avenue, Santa Clara County.

*Crossing No. 43*, San Fernando street, Santa Clara County.

All of the above as shown by the maps attached to the application; said crossings to be constructed subject to the following conditions:

(1) The entire expense of constructing the crossings, together with the cost of their maintenance thereafter in good and first-class condition for the safe and convenient use of the public shall be borne by applicant.

(2) Crossings shall be constructed of a width and type of construction to conform to the portions of the highways and streets to be

crossed now graded, with grades of approach not exceeding six (6) per cent, shall, unless protected by an automatic flagman, be protected by a standard crossing sign; and shall in every way be made safe and convenient for the passage thereover of vehicles and other road traffic.

(3) For the protection of Crossing No. 4, Mission road, Crossing No. 6, state highway, Crossing No. 8, state highway, Santa Clara County, Crossing No. 11, Capital avenue, Crossing No. 13, Hostetter road, Crossing No. 14, Lundy road, Crossing No. 16, Maybury road, Crossing No. 18, Alum Rock avenue, Crossing No. 23, Twenty-fourth street, Crossing No. 25, Williams street, Crossing No. 26, Keyes street, Crossing No. 29, Monterey road, Crossing No. 31, Almaden road, Crossing No. 32, Minnesota avenue, Crossing No. 34, Willow street, Crossing No. 35, Broadway avenue, Crossing No. 36, Coe avenue, Crossing No. 37, Sunol street, Crossing No. 38, Saverker street, Crossing No. 40, Sunol street, Crossing No. 41, San Carlos street, Crossing No. 42, Park avenue, automatic flagmen of a type approved by the commission shall be installed, the entire expense of installing and maintaining which shall be borne by applicant.

(4) Automatic flagmen located on the following streets shall be placed in the center of the highway and electrically lighted:

Crossing No. 25, Williams street; Crossing No. 29, Monterey road; Crossing No. 31, Almaden road; Crossing No. 37, Sunol street; Crossing No. 40, Sunol street.

(5) For the protection of Keyes and San Fernando streets applicant shall maintain a human flagman.

(6) For the protection of the crossings at Berryessa road, Crossing No. 15, and San Salvador street, Crossing No. 39, crossing gates shall be installed in connection with the interlocking plants to protect the railroad crossings, which will be hereinafter ordered.

(7) Applicant shall, at its own expense, construct subways, the plans of which shall have been approved by the commission, under its tracks on county road No. 12, Alameda County (Crossing No. 3) and Monterey road, Santa Clara County (Crossing No. 29) at this time or make preparations to construct them at such time as the adjacent grade crossings of Southern Pacific Company are eliminated.

*It is hereby further ordered* that applicant be and the same hereby is granted permission to construct its tracks at grade across the following railroad tracks:

*Crossing No. 1*—Crossing of a spur track of the Southern Pacific Company near Irvington.

*Crossing No. 2*—Crossing of the Peninsular Railway Company near the Berryessa road.

*Crossing No. 3*—Crossing of the San Jose Railroads on Alum Rock avenue.

*Crossing No. 4*—Crossing of the San Jose Railroads on Keyes street.

*Crossing No. 5*—Crossing of the main line of the Southern Pacific Company about 1,200 feet south of the southerly city limits of San Jose.

*Crossing No. 6*—Crossing of the San Jose Railroads on Monterey road.

*Crossing No. 7*—Crossing of San Jose Railroads on Willow street.

*Crossing No. 8*—Crossing of the Peninsular Railway Company on Coe avenue.

*Crossing No. 9*—Crossing with the College Park and Santa Cruz line of the Southern Pacific Company, about 200 feet south of San Salvador street.

*Crossing No. 10*—Crossing with the Peninsular Railway Company on San Carlos street.

*Crossing No. 11*—Crossing of the Peninsular Railway Company on Park avenue between Sunol street and McAvoy avenue.

These crossings to be constructed at the points shown on the maps attached to the application and subject to the following conditions:

(1) The entire expense of constructing the crossings, together with the expense of their maintenance thereafter, shall be borne by applicant, subject to such agreements as have been or may be made between Western Pacific Company and the other companies interested.

(2) For the protection of Crossing No. 2, Peninsular Railway Company's crossing on Berryessa road, Crossing No. 5, crossing of Southern Pacific Company's main line, and Crossing No. 9, College Park and Santa Cruz line of Southern Pacific Company, applicant shall, at its own expense, install first-class interlocking plants, the maintenance of which shall be borne by applicant, Southern Pacific Company and Peninsular Railway Company for their respective crossings, in proportions to be determined in a supplemental order, provided applicant is unable to agree with Southern Pacific Company and Peninsular Railway Company concerning the same.

*It is hereby further ordered* that after the installation of crossing frogs with the tracks of the Peninsular Railway and the San Jose Electric Railway, except for Crossing No. 2, where an interlocking plant will be installed, all engines, trains, motors and cars of the Peninsular Railway Company and the San Jose Railway Company shall come to a full stop before passing over the same and shall not proceed until it has been ascertained that it is safe to do so; and all engines, trains, motors and cars of applicant shall approach and cross over same at a speed not exceeding six (6) miles an hour.

*It is hereby further ordered* that the commission reserves the right to make such further orders relative to the location, construction, operation, maintenance and protection of the crossings for which permission is herein granted, as to it may seem right and proper, and to revoke its

permission if, in its judgment, the public convenience and necessity demand such action.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission.

Dated at San Francisco, California, this eleventh day of October, 1917.

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DECISION No. 4745.

IN THE MATTER OF THE APPLICATION OF SOUTHERN CALIFORNIA TELEPHONE COMPANY FOR AN ORDER AUTHORIZING THE ISSUE OF CAPITAL STOCK AND BONDS, THE EXECUTION OF A DEED OF TRUST, THE PURCHASE OF PROPERTY AND THE OPERATION UNDER VARIOUS FRANCHISES; OF HOME TELEPHONE AND TELEGRAPH COMPANY FOR AN ORDER AUTHORIZING THE SALE OF ITS PROPERTY TO SOUTHERN CALIFORNIA TELEPHONE COMPANY; OF SUNSET TELEPHONE AND TELEGRAPH COMPANY FOR AN ORDER AUTHORIZING THE SALE OF A PORTION OF ITS PROPERTY TO THE PACIFIC TELEPHONE AND TELEGRAPH COMPANY; AND OF THE PACIFIC TELEPHONE AND TELEGRAPH COMPANY FOR AN ORDER AUTHORIZING THE SALE OF A PORTION OF ITS PROPERTY TO SOUTHERN CALIFORNIA TELEPHONE COMPANY AND THE ACQUISITION OF CAPITAL STOCK OF SOUTHERN CALIFORNIA TELEPHONE COMPANY.

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Application No. 2227.

*Decided October 11, 1917.*

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BY THE COMMISSION.

**SECOND SUPPLEMENTAL ORDER.**

Good cause appearing,

*It is hereby ordered* that Southern California Telephone Company be and it is hereby granted authority to execute a supplemental indenture in substantially the same form as the supplemental indenture marked Exhibit "A" and attached to the supplemental petition filed in the above-entitled matter on October 11, 1917.

The approval herein given of said supplemental indenture is for the purpose of this proceeding only and is an approval only in so far as this commission has jurisdiction under the terms of the Public Utilities Act and is not intended as an approval of said indenture as to such other legal requirements to which said indenture may be subject.

Dated at San Francisco, California, this eleventh day of October, 1917.

Decision No. 4746, grade crossing; not printed. See end of volume.

DECISION No. 4747.

W. R. CONLIN

*vs.*

LEVEN C. BROWN.

Case No. 1090.

*Decided October 11, 1917.*

BY THE COMMISSION.

**ORDER OF DISMISSAL.**

Upon stipulation of parties, and good cause appearing therefor,  
*It is hereby ordered* that the above-entitled case be and it is hereby  
dismissed.

Dated at San Francisco, California, this eleventh day of October,  
1917.

DECISION No. 4748.

FRANCIS L. BEANS ET AL.

*vs.*

SAN JOSE WATER WORKS.

Case No. 1101.

*Decided October 11, 1917.*

*Herbert E. Foster*, for Complainants.

*Leib & Leib*, for Defendant.

BY THE COMMISSION.

**OPINION.**

Public hearings were held by Examiner Westover in above case, in  
which complainants prayed for an extension of service.

After taking the testimony an agreement was reached between the  
parties to the following effect:

Complainants will guarantee to defendant a gross revenue from the  
proposed extension of \$150.00 per year for the term of five years from  
the date of installation; and cooperate with defendant in procuring or  
providing the necessary rights of way without expense to defendant;  
in return for which defendant will at once extend a two-inch main  
from its Oak street line along Lomita avenue and Vickery lane to the  
end of the latter, and from this two-inch main extend service pipes to  
the property lines and there set meters, all at defendant's expense;  
and serve water at regular scheduled rates. Draft of proposed guar-  
anty was at once prepared and signed by complainants present.

We are now advised by the parties that the extension has been made  
and service begun.



**ORDER.**

Public hearings having been held in the above-entitled case and the parties having reached an agreement to the effect set forth in the opinion, and satisfactory adjustment having been reached, pursuant to written request of complainants,

*It is hereby ordered* that said case be and it is hereby dismissed.

Dated at San Francisco, California, this eleventh day of October, 1917.

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**DECISION No. 4749.**

IN THE MATTER OF THE APPLICATION OF SOUTHERN PACIFIC RAILROAD COMPANY, SOUTHERN PACIFIC COMPANY AND THE ATCHISON, TOPEKA AND SANTA FE RAILWAY COMPANY FOR PERMISSION TO TRANSFER TO THE ATCHISON, TOPEKA AND SANTA FE RAILWAY COMPANY AN UNDIVIDED ONE-HALF INTEREST IN CERTAIN RAILROAD PROPERTY KNOWN AS "OIL CITY BRANCH."

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Application No. 2828.

*Decided October 15, 1917.*

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BY THE COMMISSION.

**FIRST SUPPLEMENTAL ORDER.**

Applicants in the above-entitled matter having submitted to the Railroad Commission satisfactory bookkeeping entries showing how the agreed valuation of the so-called "Oil City Branch" will be handled,

*It is hereby ordered* that the authority granted in the original order in this matter (Decision No. 4290) is hereby made effective as of the date of this order.

Dated at San Francisco, California, this fifteenth day of October, 1917.

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**DECISION No. 4750.**

IN THE MATTER OF THE APPLICATION OF THE HUNT-HATCH TRANSPORTATION COMPANY FOR PERMISSION TO INCREASE FREIGHT RATES.

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Application No. 2955.

*Decided October 16, 1917.*

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Applicant's present revenue having been found to be inadequate owing to the increase in cost of labor and supplies, it is authorized to increase freight rates 15 per cent, such increase to become effective within twenty days.

*Sanborn & Roehl*, for Applicant.

*Seth Mann*, for San Francisco Chamber of Commerce.

*G. J. Bradley*, for Merchants and Manufacturers Association of Sacramento.

*H. M. Wade*, for Oakland Chamber of Commerce and certain San Francisco shippers.

*H. W. Adams*, for California Fruit Distributors of Sacramento.

BY THE COMMISSION.

#### OPINION.

This proceeding is an application by the Hunt-Hatch Transportation Company for authority to make a uniform increase of 15 per cent in all its freight rates as published and filed with this commission in applicant's Local Freight Tariff No. 2, C. R. C. No. 1, and supplements thereto, applying between Oakland and landings on Sacramento River, San Joaquin River, Mokelumne River, Old River, Middle River and intermediate points.

In justification of the proposed increases applicant avers that greatly increased cost of operation renders existing rates unremunerative and wholly inadequate for the service performed. In support of this statement applicant submitted at the hearing the following actual figures covering period of one year, ending December 31, 1916, with an estimate for 1917. The estimated figures for 1917 are based on a 15 per cent increase in freight revenue and the increased cost of operation occasioned by increase in cost of fuel, labor and materials.

	Actual 1916	Estimated 1917
Operating revenue—		
Freight .....	\$42,936 97	\$48,756 31
Net revenue from chartered vessels.....	4,458 92	.....
Totals .....	\$47,395 89	\$48,756 31
Operating expenses .....	\$29,472 56	\$45,623 14
Net operating revenue.....	7,923 33	3,133 37
Other charges:		
Proportion of dock rent.....	\$3,200 00	\$3,200 00
Interest on investment.....	3,042 80	3,042 80
Marine insurance .....	1,938 13	1,938 13
Totals .....	\$8,280 93	\$8,280 93
Deficit .....	\$357 60	\$5,147 56

In explanation of the increased cost of operation, the following comparison was submitted by applicant:

*Comparison of Actual Expenses for Five Months, January to May, Inclusive, 1916-1917.*

	1916	1917	Increase
Pay roll .....	\$4,471 90	\$4,591 45	\$119 55
Provisions .....	113 43	97 65	*15 78
Coal .....	957 56	1,108 01	150 45
Fuel and oil.....	1,515 58	2,004 63	489 05
Repairs .....	1,289 02	2,536 70	1,247 68
Insurance .....	471 07	476 11	5 04
General expenses .....	697 28	734 37	37 09
Rent dock and wharf.....	500 00	1,400 00	900 00
General office clerks.....	1,750 00	1,400 00	*350 00
Totals .....	\$11,765 84	\$14,348 92	\$2,583 08

\*Decrease.

No one appeared in opposition to the granting of the petition herein. Petitioner's petition for relief is due to the increased cost of labor and material, without a corresponding increase in its gross revenues. The petition should be granted.

#### ORDER.

The Hunt-Hatch Transportation Company having applied under section 63 of the Public Utilities Act for authority to increase certain freight rates, as set forth in the opinion which precedes this order, a public hearing having been held and the Railroad Commission being fully apprised in the premises, the Railroad Commission hereby finds as a fact that the existing freight rates of petitioner are unremunerative and that the rates herein established are just and reasonable rates.

Basing its order on the foregoing finding of fact and on the other findings which are contained in the opinion which precedes this order,

*It is hereby ordered* that the Hunt-Hatch Transportation Company be and the same is hereby authorized, within 20 days from the date of this order, to file with the Railroad Commission and thereafter charge freight rates which are uniformly 15 per cent higher than those now on file with this commission.

Dated at San Francisco, California, this sixteenth day of October, 1917.

## DECISION No. 4751.

IN THE MATTER OF THE APPLICATION OF COAST COUNTIES GAS AND ELECTRIC COMPANY FOR AN ORDER TO RENEW A NOTE OF TWENTY THOUSAND DOLLARS (\$20,000.00) TO THE BANK OF CALIFORNIA NATIONAL ASSOCIATION.

Application No. 3265.

*Decided October 16, 1917.*

Applicant authorized to issue its 5 per cent note in the sum of \$20,000.00, with permission to renew the same provided the aggregate terms do not exceed one year, such note to be issued in renewal of a note of a like face value.

*S. Waldo Coleman*, for Applicant.

EDGERTON, *Commissioner*.

## OPINION.

This is an application of Coast Counties Gas and Electric Company for authority to issue a four-months 5 per cent promissory note to Bank of California National Association in the principal sum of \$20,000.00 for the purpose of renewing a similar note now outstanding. Applicant also asks for the privilege of renewing said note from time to time for a period not exceeding one year.

Applicant's petition shows that the proceeds from the original note were used in the payment of expenditures incurred for capital purposes.

Applicant intends to pay the note which it now desires to issue as soon as it is able to dispose of a sufficient amount of its preferred stock authorized to be issued by Decision No. 4653, dated September 19, 1917.

I herewith submit the following form of order:

## ORDER.

Coast Counties Gas and Electric Company having applied to the Railroad Commission for authority to issue a 5 per cent promissory note in the principal sum of \$20,000.00, payable four months after date to the Bank of California National Association, and for authority to renew said note from time to time for a period not exceeding one year; and a public hearing having been held, and it appearing that the money, property or labor to be procured by such issue is reasonably required for the purpose specified in the order, and that such purpose is not in whole or in part reasonably chargeable to operating expenses or to income,

*It is hereby ordered* that Coast Counties Gas and Electric Company be and it is hereby granted authority to issue for not less than the face value thereof a promissory note to the Bank of California National Association in the principal sum of \$20,000.00, payable four months after date and bearing interest at not to exceed 5 per cent per annum.

The authority herein granted is granted upon the following conditions and not otherwise:

1. The proceeds from the issue of the note herein authorized shall be used by applicant to pay a \$20,000.00 note, payable to Bank of California National Association on October 16, 1917.

2. Applicant may renew the note herein authorized to be issued from time to time, provided that the term of the note herein authorized and the renewals thereof shall not exceed one year.

3. Coast Counties Gas and Electric Company shall report to the Railroad Commission within ten days after the issue of the note herein authorized the fact and the date of issue, the face value of the note, the rate of interest and the application of the proceeds, all in accordance with this commission's General Order No. 24, which order, in so far as applicable, is made a part of this order.

4. The authority herein granted is conditioned upon the payment by applicant of the fee prescribed in the Public Utilities Act.

5. The authority herein granted shall apply only to such notes as shall be issued on or before September 1, 1918.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the state of California.

Dated at San Francisco, California, this sixteenth day of October, 1917.

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DECISION No. 4752.

IN THE MATTER OF THE APPLICATION OF SOUTHERN CALIFORNIA EDISON COMPANY FOR AN ORDER OF THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA, AUTHORIZING IT TO ISSUE, SELL AND DELIVER FIFTY THOUSAND SHARES OF ITS COMMON CAPITAL STOCK OF THE PAR VALUE OF ONE HUNDRED DOLLARS EACH.

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Application No. 2743.

*Decided October 16, 1917.*

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Applicant authorized to issue 25,000 shares of its common capital stock of the par value of \$100.00 per share, such stock to be sold at not less than \$8, proceeds thereof to be placed in a special fund and expended only for such purposes as are approved by the commission under supplemental orders.

BY THE COMMISSION.

**FOURTH SUPPLEMENTAL ORDER.**

Whereas the Railroad Commission by Decision No. 4403, dated June 16, 1917, annulled the order in Decision No. 4097, dated Feb-

ruary 13, 1917, authorizing applicant in the above-entitled matter to issue 50,000 shares of its common capital stock of the par value of \$100.00 per share, and subsequently, by Decision No. 4415, dated June 21, 1917, and Decision No. 4570, dated August 21, 1917, authorized applicant to issue 32,000 shares of said 50,000 shares of common capital stock; and

Whereas applicant in its fourth supplemental petition requests authority to issue 25,000 additional shares of its common capital stock, of which 2,500 shares are to be offered to its employees pursuant to a contract marked Exhibit "B" and attached to the third supplemental petition, and the balance of said 25,000 shares not subscribed for by applicant's employees are to be offered to the general public pursuant to the contracts marked Exhibits "C" and "D" and attached to the third supplemental petition herein; and

Whereas it appears that applicant desires to issue 7,000 shares of common capital stock in addition to the 50,000 shares above referred to, and to expend the proceeds from the aforesaid 25,000 shares of stock for such purposes as hereafter authorized by the Railroad Commission, and a hearing having been held; now, therefore,

*It is hereby ordered* that Southern California Edison Company be and it is hereby granted authority to issue 25,000 shares of its common capital stock at not less than \$88.00 cash per share net.

The authority herein granted is granted subject to the following conditions, and not otherwise:

1. Of the stock herein authorized to be issued 2,500 shares shall be offered to applicant's employees pursuant to the terms of the contract marked Exhibit "B" attached to the third supplemental petition in this proceeding. The balance of the 25,000 shares herein authorized to be issued, not subscribed for by applicant's employees, shall be offered to the general public pursuant to the contracts marked Exhibits "C" and "D" and attached to the third supplemental petition in this proceeding.

2. The proceeds from the sale of the 25,000 shares of stock shall be placed in a special fund and expended only after applicant shall have filed with the Railroad Commission a detailed statement showing the purposes for which it proposes to use said proceeds, and shall have received a supplemental order from the Railroad Commission approving the same.

3. Southern California Edison Company shall keep separate, true and accurate account showing the receipt and application in detail of the proceeds of the sale of the stock hereby authorized to be issued, and on or before the twenty-fifth day of each month the company shall make verified reports to the Railroad Commission stating the sale or

sales of said stock during the preceding month, the terms and conditions of the sale, the moneys realized therefrom, and the use and application of such moneys, all in accordance with this commission's General Order No. 24, which order, in so far as applicable, is made a part of this order.

4. The authority herein granted to issue stock shall apply only to such stock as shall have been issued on or before August 1, 1918.

Dated at San Francisco, California, this sixteenth day of October, 1917.

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DECISION No. 4753.

IN THE MATTER OF THE APPLICATION OF THE SACRAMENTO TRANSPORTATION COMPANY FOR PERMISSION TO INCREASE FREIGHT RATES.

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Application No. 2933.

*Decided October 16, 1917.*

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Conditions warranting temporary increases in rates on grain, beans, etc., heretofore authorized, is made permanent and applicant is also authorized to increase other rates in accordance with application, provided that as there is no movement between San Francisco and Sacramento, applicant is required to cancel all rates applicable between such points.

*Sanborn & Rochl*, for Applicant.

*Seth Mann*, for San Francisco Chamber of Commerce.

*G. J. Bradley*, for Merchants and Manufacturers Association of Sacramento.

*H. M. Wade*, for the Oakland Chamber of Commerce and other San Francisco shippers.

*H. W. Adams*, for the California Fruit Distributors of Sacramento.

BY THE COMMISSION.

**OPINION.**

This petition was heard in conjunction with Application No. 2932 of the Farmers' Transportation Company and in Decision No. 4507 of August 1, 1917, an interlocutory order was entered authorizing increase in rates on grain, beans, potatoes and live stock from points served by applicant on the Sacramento River above Sacramento to San Francisco, Sacramento, Port Costa and South Vallejo.

The following remaining portions of application await decision:

Permission asked to cancel commodity rates between San Francisco and Sacramento on pages 9, 10 and 11, of Local Freight Tariff No. 10 (C. R. C. No. 11) applicable to quantities of less than 20,000 pounds,

allowing class rates, governed by Western Classification, to apply thereafter.

Applicant also requests authority to make a general increase of 15 per cent in class and commodity rates carried in following tariffs:

Local Freight Tariff No. 1 (C. R. C. No. 1) naming class and commodity rates between San Francisco, Sacramento and points above Sacramento to and including Monroeville.

Local Freight Tariff No. 10 (C. R. C. No. 11) naming class and commodity rates between San Francisco and Sacramento and intermediate points.

Grain Tariff No. 2 (C. R. C. No. 2) naming rates on grain, grain products and seeds, between San Francisco, Oakland, Port Costa, South Vallejo and Sacramento on the one hand and on the other, landings on the Sacramento River above Sacramento.

Cement Tariff No. 3-B (C. R. C. No. 17) naming rates on cement from San Francisco, Port Costa, South Vallejo and Sacramento to points on the Sacramento River.

Local Freight Tariff Nos. 4 to 9, inclusive (C. R. C. Nos. 5 to 10, inclusive) naming commodity rates between San Francisco, Sacramento and Chico Landing, also between intermediate landings.

This application is closely related to that of the Farmers' Transportation Company. In our decision in the latter proceeding, this day made, it is shown that the Farmers' Transportation Company and petitioner do not operate between San Francisco and Sacramento, such service being performed by the San Francisco and Sacramento Navigation Company whose application to increase these rates is now before us. Therefore that portion of application comprehending the consideration of rates between San Francisco and Sacramento will be dismissed and applicant is expected to eliminate such rates from its tariff.

The situation with respect to traffic involving upper river movement is the same with this applicant as with its contemporary, the Farmers' Transportation Company. It is confronted with the same operating difficulties and is in a similar financial condition.

Petitioner's Exhibit No. 1 reproduced below shows actual results for the year 1916 compared with the estimated results for the year 1917.



	For calendar year 1916 (actual)	For calendar year 1917 (estimated)
Operating revenues—		
Freight revenue -----	\$296,541 38	\$355,996 40
Towing revenue -----	6,068 75	6,979 06
Total revenue -----	\$302,610 13	\$362,975 46
Operating expenses—		
Steamer operation:		
Pay roll -----	\$122,720 00	\$134,992 00
Fuel -----	31,791 21	31,791 24
Supplies -----	7,170 80	10,756 20
Commissary -----	53,700 00	69,810 00
Repairs -----	37,738 44	47,173 05
Insurance -----	4,944 68	6,357 95
Miscellaneous -----	3,580 90	3,580 90
Totals -----	\$261,646 06	\$304,461 34
Agency -----	53,290 21	57,372 00
General expenses -----	13,242 04	13,242 04
Total operating expense -----	\$328,178 31	\$375,075 38
Operating deficit -----	\$25,568 18	\$12,099 92
Reserve for depreciation, reconstruction 6 per cent on original cost of \$165,158.61 -----	\$27,909 51	
Reserve for marine insurance, 6 per cent on re- production valuation of \$701,500 -----	42,000 00	
Return on investment of \$570,898.32 at 8 per cent -----	45,671 86	115,671 37
Total deficit -----	\$141,239 55	\$127,771 29

<sup>1</sup>Including 10 per cent.

<sup>2</sup>Including 60 per cent.

<sup>3</sup>Including 30 per cent.

<sup>4</sup>Including 25 per cent.

<sup>5</sup>Including casualty insurance due to increase in pay roll and commissary.

It will be noted from this exhibit that if revenue is increased as anticipated under proposed rates this applicant, because of increase in operating expenses, will still be unable to secure sufficient revenue to overcome an operating deficit in 1917.

We are, therefore, of the opinion, after careful consideration, that the increases prayed for, in so far as they affect upper river movement above Sacramento, are reasonable and should be granted.

The following form of order will be entered:

#### ORDER.

The Sacramento Transportation Company having applied under section 63 of the Public Utilities Act, for authority to increase certain freight rates as shown in the opinion preceding this order, and a public hearing having been held and the commission being fully apprised in the premises, the Railroad Commission hereby finds as a fact that the existing freight rates of petitioner are unremunerative and that the rates herein established are just and reasonable rates.

Basing this order on the foregoing finding of fact and on the further findings of fact which are contained in the opinion which precedes this order,

*It is hereby ordered* that the interlocutory order of August 1, 1917 (Decision No. 4507), be and the same is hereby made permanent.

*It is further ordered* that that portion of application seeking authority to increase class and commodity rates between San Francisco and Sacramento be and the same is hereby dismissed.

*It is further ordered* that applicant be and the same is hereby authorized within twenty days from the date of this order to file with the Railroad Commission and thereafter charge freight rates, increasing the present rates in the following tariffs in accordance with table of rates annexed to and made a part of the application and marked "Exhibit A":

Local Freight Tariff No. 1 (C. R. C. No. 1) naming class and commodity rates between San Francisco, Sacramento and points above Sacramento to and including Monroeville.

Grain Tariff No. 2 (C. R. C. No. 2) naming rates on grain, grain products and seeds, between San Francisco, Oakland, Port Costa, South Vallejo and Sacramento on the one hand and on the other, landings on the Sacramento River above Sacramento.

Cement Tariff No. 3-B (C. R. C. No. 17) naming rates on cement from San Francisco, Port Costa, South Vallejo and Sacramento to points on the Sacramento River.

Local Freight Tariffs Nos. 4 to 9, inclusive (C. R. C. Nos. 5 to 10, inclusive), naming commodity rates between San Francisco, Sacramento and Chico Landing, also between intermediate landings.

Dated at San Francisco, California, this sixteenth day of October, 1917.

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DECISION No. 4754.

IN THE MATTER OF THE APPLICATION OF THE FARMERS TRANSPORTATION COMPANY FOR PERMISSION TO INCREASE FREIGHT RATES.

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Application No. 2932.

*Decided October 16, 1917.*

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Conditions warranting temporary increases in rates on grain, beans, etc., heretofore authorized, is made permanent and applicant also authorized to increase rates San Francisco and Sacramento to points north thereof, provided that as there is no movement at the present between San Francisco and Sacramento, schedules applicable thereto shall be canceled and removed from applicant's tariffs.

*Sanborn & Roehl*, for Applicant.

*Seth Mann*, for San Francisco Chamber of Commerce.

*G. J. Bradley*, for Merchants and Manufacturers Association of Sacramento.

*H. M. Wade*, for the Oakland Chamber of Commerce and certain San Francisco shippers.

*H. W. Adams*, for the California Fruit Distributors of Sacramento.

BY THE COMMISSION.

#### OPINION.

In our Decision No. 4507 of August 1, 1917, in the above-entitled proceeding, an interlocutory order was entered authorizing increase in rates on grain, beans, potatoes and live stock from points served by applicant on the Sacramento River above Sacramento to San Francisco, Sacramento, Port Costa and South Vallejo.

The remaining portion of application seeks following increases:

*Class Rates Between San Francisco and Sacramento.  
In Cents Per 100 Pounds.*

	1	2	3	4	5	A	B	C	D	E
Proposed -----	20½	18	14½	12½	10	10	9	8	7½	7½
Present -----	16	14	12	10	8	8	7½	6½	6½	6½
Increase -----	4½	4	2½	2½	2	2	1½	1½	1½	1½

*Dried Fruit, in Lots of Less Than 20,000 Pounds.  
Rates in Cents per 100 Pounds.*

From	To Sacramento			To San Francisco		
	Present	Proposed	Increase	Present	Proposed	Increase
Knights Landing -----	12½	14	1½	15	17	2
Colusa -----	15	22	7	20	27	7

In addition, applicant requests authority to make general increase of 15 per cent in the class and commodity rates contained in the following tariffs:

Freight Tariff No. 1 (C. R. C. No. 1) naming class and commodity rates between San Francisco, Sacramento and Colusa and intermediate points.

Grain Tariff No. 2-A (C. R. C. No. 11) naming rates on grain, grain products and seeds between San Francisco, Oakland, Port Costa, South Vallejo and Sacramento on the one hand, and on the other, Colusa and intermediate points.

Cement Tariff No. 3-A (C. R. C. No. 8) naming rates on cement from San Francisco, South Vallejo, Port Costa and Sacramento to Knights Landing, Colusa and intermediate points.

Local Freight Tariff No. 5 (C. R. C. No. 6) naming class and commodity rates between San Francisco and Sacramento.

For reasons which follow, the situation herein presented may best be considered under two geographical divisions, viz:

1. Local traffic on the river between San Francisco and Sacramento.
2. Traffic involving movement on the upper river above Sacramento.

It is unnecessary in this report to enter into a discussion of lower river traffic, for the reason that the Farmers' Transportation Company does not operate in its individual capacity between Sacramento and points south.

In this commission's Decision No. 4182 of March 15, 1917, the Farmers' Transportation Company and the Sacramento Transportation Company were permitted to withdraw, and the San Francisco and Sacramento Navigation Company to assume, in their stead, service between San Francisco and Sacramento.

Rates of the individual lines between these points were incorporated in tariff of the San Francisco and Sacramento Navigation Company which has duplicated applicant's petition, in so far as it affects the line below Sacramento and to which consideration is now being given. Therefore, this portion of application will be dismissed and applicant will be expected to eliminate such rates from its tariff.

This brings us to a consideration of Division No. 2, comprehending movement on the upper river. Proposed increase in rates on dried fruit is predicated on desire of applicant to cancel commodity rates on lots of less than 20,000 pounds, class rates to apply thereafter.

This subjoined table shows present and proposed rates, also present carload rates (minimum 20,000 pounds).

*Dried Fruit, in Lots of Less Than 20,000 Pounds.  
Rates in Cents per 100 Pounds.*

From	To Sacramento			To San Francisco		
	Present	Proposed	Minimum 20,000 pounds	Present	Proposed	Present carload rate, minimum 20,000 pounds
Knights Landing -----	12½	14	10	15	17	12
Colusa -----	15	22	12	20	27	15

The advances contemplated from Knights Landing are insignificant, and while the proposed increases from Colusa are more pronounced we do not believe any hardship will be worked for the reason that shippers may take advantage of lower carload rates by accumulating a sufficient quantity instead of forwarding their shipments in small lots. This portion of application will therefore be passed without further discussion.

In our preliminary report it was shown that the district above Sacramento presents a condition with respect to operation and service materially different from that surrounding transportation on the lower river. It was found that no unnecessary service is performed above Sacramento but that to the contrary, during the produce season, the full use of equipment of carriers serving this section is required; also that operation is exceedingly difficult and subject to the hazard of shoal water and other menaces to navigation characteristic of this portion of the river.

From uncontroverted testimony submitted by applicant, it was conclusively shown that a heavy portion of the expense of operation is chargeable to this traffic.

The financial difficulties of this applicant were discussed in Decision No. 4507, Application No. 2932, *supra*, as follows:

"Exhibit of the Farmers' Transportation Company shows actual operating deficit of \$8,341.22 and total deficit of \$30,200.65 for the calendar year 1916, with estimated total deficit of \$20,807.65 for 1917. This estimated figure is arrived at in a manner similar to that of the Sacramento Transportation Company by adding to the operating revenue for 1916 (\$95,737.99) an amount based on the estimated increase under proposed rate advances, or \$14,359.69, making an estimated operating earning of \$110,097.68 for the year 1917.

To this figure is applied the estimated operating expense for 1917 of \$108,627.29, leaving a net operating revenue of \$1,470.39 as against operating deficit of \$8,341.22 for 1916.

After adding an amount of \$22,278.04 to cover reserve from marine and compensation insurance and return on investment, a total estimated deficit of \$20,807.65 is established for 1917 against \$30,200.65 for 1916."

In view of these facts, we are of the opinion, after mature consideration, that the increases requested by applicant, in so far as they affect upper river movement, are reasonable and should be granted.

The following form of order will be entered:

#### ORDER.

The Farmers' Transportation Company having applied, under section 63 of the Public Utilities Act, for authority to increase certain freight rates as shown in the opinion preceding this order and a public hearing having been held and the commission being fully apprised in the premises,

*It is hereby ordered* that the interlocutory order of August 1, 1917 (Decision No. 4507), be and the same is hereby made permanent.

*It is further ordered* that that portion of application seeking authority to increase class and commodity rates between San Francisco and Sacramento be and the same is hereby dismissed.

The Railroad Commission hereby finds as a fact that the existing freight rates of petitioner are unremunerative and the rates herein established are just and reasonable rates. Basing its order on the foregoing finding of fact and on the further findings of fact which are contained in the opinion which precedes this order,

*It is hereby ordered* that the Farmers' Transportation Company be and the same is hereby authorized within twenty days from the date of this order to file with the Railroad Commission and thereafter charge the following freight rates:

*Dried Fruit, in Lots of Less Than 20,000 Pounds.  
Rates in Cents per 100 Pounds.*

From	To Sacramento	To San Francisco
Knights Landing -----	14	17
Colusa -----	22	27

and, to increase rates in the following tariffs in accordance with table of rates annexed to and made a part of petition and marked "Exhibit A":

Freight Tariff No. 1 (C. R. C. No. 1) naming class and commodity rates between San Francisco, Sacramento and Colusa and intermediate points.

Grain Tariff No. 2-A (C. R. C. No. 11) naming rates on grain, grain products and seeds between San Francisco, Oakland, Port Costa, South Vallejo and Sacramento on the one hand, and on the other, Colusa and intermediate points.

Cement Tariff No. 3-A (C. R. C. No. 8) naming rates on cement from San Francisco, South Vallejo, Port Costa and Sacramento to Knights Landing, Colusa and intermediate points.

Dated at San Francisco, this sixteenth day of October, 1917.

DECISION No. 4755.

IN THE MATTER OF THE APPLICATION OF THE NAPA TRANSPORTATION COMPANY FOR AUTHORITY TO INCREASE FREIGHT RATES 15 PER CENT.

Application No. 2926.

*Decided October 16, 1917.*

Present rates having been shown to be unremunerative, applicant is authorized to put into effect within twenty days increase of 15 per cent in all freight rates.

*Sanborn & Roehl*, for Applicant.

*Seth Mann*, for San Francisco Chamber of Commerce.

BY THE COMMISSION.

**OPINION.**

This proceeding is upon application of the Napa Transportation Company, filed May 17, 1917, under section 63 of the Public Utilities Act, for an order permitting an increase of 15 per cent in all of its freight rates shown in Local Freight Tariff No. 1-B, C. R. C. No. 4, and supplements thereto. It is alleged that the existing rates are unremunerative and inadequate for the service performed.

The company commenced operation some five years ago, when it purchased, at a receivership sale for \$31,600.00, the property of its predecessor in the service. Two steamers, the St. Helena and Zinfandel, are operated between San Francisco and Napa and serve the intermediate points of Winehaven, Oleum, Sperry, Vallejo, Port Costa, Mare Island, Cutting, Stanley, Green Island, Mooney's and Russ. The revenue is derived entirely from the transportation of freight, no passenger or other class of traffic, except freight, being accepted.

The financial condition of this petitioner was examined in Decision No. 1744 of March 20, 1916, Vol. 9, Opinions and Orders of the Railroad Commission of California, page 375. The investigation showed a loss of \$39,710.69 in operating revenue for the first thirty-three months of operations, October 1, 1912, to June 30, 1915. The relief prayed for was, in part, authorized, but failed to produce any substantial results.

In support of the contention that the operations are still unprofitable, applicant filed in these proceedings its Exhibit No. 1, showing the actual results from its operations during the year 1916 and an estimate to cover the calendar year of 1917 on the assumption that the increases herein asked for are granted, as follows:

*Year Ending December 31.*

	1916 (actual)	1917 (estimated)
Operating revenue—		
Freight -----	\$51,612 38	\$59,354 24
Operating expenses—		
Steamer operations -----	\$46,084 89	\$50,935 54
Agency and general -----	16,467 03	16,467 03
	\$62,551 92	\$67,402 57
Operating deficit -----	\$10,939 54	\$8,048 33
Reserve for depreciation and reconstruction, 6 per cent on original cost of \$31,600.00 -----	1,896 00	1,896 00
Return on investment of \$31,600.00 at 8 per cent -----	2,528 00	2,528 00
Total deficit -----	\$15,363 54	\$12,472 33

Petitioner contends from this report that the total operating deficit for the calendar year 1916 was \$10,939.54 and that the estimated oper-

ating deficit for 1917 will be \$8,048.33. The figures shown for 1917 are based on a 15 per cent increase in the freight revenue over 1916, while the expenses are advanced 10 per cent for labor, 30 per cent for commissary supplies and 25 per cent for repairs, or an average total increase of 7.75 per cent. These increased expenditures are conservative by comparison with the testimony given in the allied river boat Applications Nos. 2924, Southern Pacific Company; 2928, Monticello Steamship Company; 2929, California Transportation Company; 2930, California Navigation and Improvement Company; 2931, San Francisco and Sacramento Navigation Company; 2932, Farmers Transportation Company; 2933, Sacramento Transportation Company; and 2955, Hunt-Hatch Transportation Company, which testimony, by stipulation, was made part of these proceedings. If to the operating deficit is added the reserve claimed by petitioner for depreciation and a return on the investment, there would be a total deficit of \$15,363.54 in 1916 and an estimated deficit of \$12,472.33 for 1917.

Since the current year's results as carried in Exhibit No. 1 were problematical, a supplemental statement was secured, showing the actual figures for the first five months of 1917, which are set forth below in comparison with the same five months of 1916:

*Revenue.*

Month	1916	1917	Increase
January .....	\$3,288 13	\$4,863 03	\$1,574 90
February .....	3,866 00	4,333 07	467 07
March .....	4,785 98	5,654 99	869 01
April .....	3,741 64	5,300 55	1,558 91
May .....	4,150 25	5,157 06	1,006 81
<b>Totals .....</b>	<b>\$19,832 00</b>	<b>\$25,308 70</b>	<b>\$5,476 70</b>
Monthly average (1917).....			\$5,061 74
Twelve months (1917) based on monthly average.....			60,740 88

*Expenses, 1916.*

Account	January	February	March	April	May	Total
Shore .....	\$1,329 13	\$1,396 31	\$1,433 40	\$1,323 07	\$1,589 74	\$7,081 65
General .....	566 92	495 05	466 77	483 65	482 97	2,495 36
Mess supplies .....	491 48	423 50	382 85	331 45	466 94	2,096 22
Deck labor .....	973 03	878 02	919 65	841 08	1,053 76	4,695 54
Engine labor .....	471 51	352 07	354 58	384 03	425 96	1,988 15
Mess labor .....	131 54	103 77	105 00	94 50	115 42	550 23
Fuel .....	612 80	582 10	602 75	512 30	511 18	2,851 13
Renewals and repairs to deck.....	29 70	139 58	273 80	11 06	62 03	516 17
Renewals and repairs to engine...	8 96	65 83	5 05	16 15	112 85	208 84
Engine supplies .....	70 08	45 02	60 97	61 74	60 07	297 88
Deck supplies .....	15 88	10 10	14 89	5 87	1 10	48 14
Loss and damage..	20 37	64 96	28 82	10 02	112 29	236 46
<b>Total .....</b>	<b>\$4,721 40</b>	<b>\$4,556 61</b>	<b>\$4,678 53</b>	<b>\$4,084 92</b>	<b>\$5,024 31</b>	<b>\$23,065 77</b>



*Expenses, 1917.*

Shore .....	\$1,276 65	\$1,369 80	\$1,311 67	\$1,293 79	\$1,322 39	\$6,574 30
General .....	716 18	688 53	739 05	707 96	780 10	3,631 82
Mess supplies .....	524 78	554 82	613 44	602 76	679 41	2,975 21
Deck labor .....	1,006 47	987 15	1,034 13	1,058 88	1,356 75	5,453 38
Engine labor .....	597 64	601 28	599 30	678 37	673 85	3,150 44
Mess labor .....	210 00	200 62	199 10	228 29	218 46	1,056 47
Fuel .....	644 77	635 51	737 58	529 12	568 77	3,115 75
Renewals and re- pairs to deck .....		79 41	55 95	37 35	121 15	293 86
Renewals and re- pairs to engine .....	17 72	14 05	45 95	14 60	15 75	108 07
Engine supplies .....	125 67	126 88	106 41	120 36	141 65	620 97
Deck supplies .....	6 55	80	14 73	36 57	1 90	60 55
Loss and damage .....	65 27	13 62	2 49	11 95	64 75	158 08
Total .....	\$5,191 70	\$5,282 47	\$5,459 80	\$5,320 00	\$5,944 93	\$27,198 90
Monthly average (1917) .....						\$5,439 78
Twelve months (1917) based on monthly average .....						65,277 36
Net estimated operating revenue (1917)—deficit .....						4,536 48

It will be noted that the revenue for the first five months of 1917 increased \$5,476.70 over the same period of 1916 and that the average monthly revenue was \$5,061.74. Presuming this average will remain constant throughout the twelve months, applicant will receive \$60,740.88, or \$1,386.64 in excess of the estimated revenue for 1917, as shown by Exhibit No. 1, and \$9,128.50 more than total revenue secured in 1916. Increased revenue is attributable to more frequent and better service by the operation of the two boats instead of one, while operating expenses have been held down by the employment of fewer deck hands.

The estimated operating expenses for 1917, based on the first five months of 1916, amount to \$65,277.36, or \$2,125.21 less than the estimated expenses shown by applicant in Exhibit No. 1 and but \$2,725.44, or 4.36 per cent, in excess of the operating expenses for the year 1916. Up to this point it appears that the estimated operating deficit for 1917 would be \$4,536.48 and if there is added \$1,896.00 for depreciation account and \$2,528.00 for return on investment, there is a total deficit for the calendar year of \$8,960.48.

Subsequent to the submission of the case this commission's auditing department made a check of applicant's accounts from the time present company was organized, November 2, 1912, to July 31, 1917. It will not be necessary to here set forth all details of the report, for it substantiates, with but few minor exceptions, the exhibits and annual reports rendered by applicant. By stipulation, all reports filed herein subsequent to the submission are made part of the record.

The statement set forth below makes a comparison in concise form of the revenue and expenses for 1915, 1916 and 1917:

*Year Ending December 31 1915.*

	St. Helena	Zinfandel	Jesse Matson	Total
<b>Fleet operating revenue—</b>				
Freight .....	\$37,662 01	\$5,939 32	\$339 08	\$43,940 41
Passenger .....	200 95	1 00		201 95
<b>Total earnings .....</b>	<b>\$37,862 96</b>	<b>\$5,940 32</b>	<b>\$339 08</b>	<b>\$44,142 36</b>
<b>Fleet operating expenses—</b>				
General .....	\$4,978 18	\$2,381 07		\$7,359 25
Mess supplies .....	4,185 36	805 56		4,990 92
Labor—deck .....	8,291 46	2,194 39		10,485 85
Labor—engine .....	3,912 59	1,289 03		5,201 62
Labor—mess .....	1,101 26	316 77		1,418 03
Fuel .....	5,406 11	899 16		6,305 27
Renewals and repairs—deck .....	760 55	2,383 07		3,143 62
Renewals and repairs—engine .....	1,081 54	175 56		1,257 10
Engine supplies .....	638 27	133 04		771 31
Deck .....	64 68	6 10		70 78
Loss and damage .....	521 59	129 54		651 13
<b>Total fleet operating expenses .....</b>	<b>\$30,941 59</b>	<b>\$10,713 29</b>		<b>\$41,654 88</b>
<b>Other operating expenses—</b>				
Shore expenses .....				14,048 06
<b>Total operating expenses .....</b>				<b>\$55,702 94</b>
<b>Total operating revenue .....</b>				<b>44,142 36</b>
<b>Net operating revenue (deficit) .....</b>				<b>\$11,560 58</b>

*Year Ending December 31, 1916.*

	St. Helena	Zinfandel	Lew Young	Emma	Total
<b>Fleet operating revenue—</b>					
Freight .....	\$31,438 67	\$19,957 74	\$154 41	\$47 81	\$51,598 63
Passenger .....	13 75				13 75
<b>Total earnings .....</b>	<b>\$31,452 42</b>	<b>\$19,957 74</b>	<b>\$154 41</b>	<b>\$47 81</b>	<b>\$51,612 38</b>
<b>Fleet operating expenses—</b>					
General .....	\$3,771 94	\$2,815 77			\$6,587 71
Mess supplies .....	3,429 06	2,313 51			5,742 57
Labor—deck .....	7,505 68	5,081 55			12,587 23
Labor—engine .....	3,199 61	2,239 22			5,438 83
Labor—mess .....	964 41	666 15			1,630 56
Fuel .....	4,883 68	2,733 46			7,617 14
Renewals and repairs—deck .....	1,894 43	291 15			2,185 58
Renewals and repairs—engine .....	2,238 95	224 37			2,463 32
Engine supplies .....	2,238 95	224 37			2,463 32
Engine supplies .....	620 29	271 93			892 22
Deck .....	63 45	113 58			177 03
Loss and damage .....	565 40	82 57			647 97
<b>Total fleet operating ex- penses .....</b>	<b>\$29,136 90</b>	<b>\$16,833 26</b>			<b>\$45,970 16</b>
<b>Other operating expenses—</b>					
Shore expenses .....					16,131 53
<b>Total operating expenses .....</b>					<b>\$62,101 69</b>
<b>Total operating revenue .....</b>					<b>51,612 38</b>
<b>Net operating revenue (deficit) .....</b>					<b>\$10,489 31</b>

*January 1, 1917 to July 31, 1917.*

	St. Helena	Zinfandel	Low Young	Total
Fleet operating revenue—				
Freight .....	\$18,949 14	\$17,023 23	\$99 72	\$36,072 09
Passenger .....				
Total earnings .....	\$18,949 14	\$17,023 23	\$99 72	\$36,072 09
Fleet operating expenses—				
General .....	\$2,511 05	\$2,694 60		\$5,205 65
Mess supplies .....	2,151 45	2,081 02		4,232 47
Labor—deck .....	3,977 86	4,029 30		8,007 16
Labor—engine .....	2,291 10	2,154 34		4,445 44
Labor—mess .....	745 04	749 66		1,494 70
Fuel .....	2,553 84	2,176 79		4,730 63
Renewals and repairs—deck .....	190 94	1,438 93		1,629 87
Renewals and repairs—engine .....	187 92	57 90		245 82
Engine supplies .....	493 02	388 32		881 34
Deck .....	40 21	28 54		68 75
Loss and damage .....	162 12	46 39		208 51
Total fleet operating expenses .....	\$15,304 55	\$15,845 79		\$31,150 34
Other operating expenses—				
Shore expenses .....				9,221 03
Total operating expenses .....				\$40,371 37
Total operating revenue .....				36,072 09
Net operating revenue (deficit) .....				\$4,299 28

It will be noted the company during this period of time suffered losses as follows:

Year ending December 31, 1915 .....	\$11,560 58
Year ending December 31, 1916 .....	10,489 31
Seven months ending July 31, 1917 .....	4,299 28

These figures do not include depreciation, which the company has neglected to charge.

The important points in this competitive territory are also served by the Monticello Steamship Company, San Francisco, Napa and Calistoga Railway and the Southern Pacific Company. These lines, collectively, handle much of the tonnage and could, without doubt, in addition, transport all the strictly competitive traffic.

The competing carriers petitioned for the same increases in rates, but later the rail lines withdrew their applications and it is, therefore, doubtful if the increases prayed for by this boat line will produce the anticipated increase in revenue. However, a different kind of service is rendered and there are exclusive points located on the San Francisco and San Pablo bays and on the Napa River north of Vallejo, also certain lumber yards, tanneries, warehouses and other industries on the river bank at Napa City which would suffer should this boat line be discontinued.

In view of the financial showing made, additional revenue is essential, otherwise it will only be a question of time before this company must cease operations entirely.

Upon the whole record we find that the existing rates are unremunerative and that the application should be granted.

**ORDER.**

Napa Transportation Company having applied for permission to increase all its freight rates fifteen (15) per cent and a public hearing having been held and the Railroad Commission being fully apprised in the premises, it hereby finds as a fact that the existing freight rates of petitioner are unremunerative and that the rates herein established are just and reasonable rates.

The Railroad Commission, basing its order on the finding of fact and on the further findings of fact which are contained in the opinion which precedes this order,

*It is hereby ordered* that Napa Transportation Company be and the same is hereby authorized within twenty days from the date of this order to file with the Railroad Commission and thereafter charge freight rates increasing its present rates fifteen (15) per cent, in accordance with the table of rates attached to and made a part of the original petition herein.

Dated at San Francisco, California, this sixteenth day of October, 1917.

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DECISION No. 4756.

IN THE MATTER OF THE APPLICATION OF WINTERHAVEN IMPROVEMENT COMPANY FOR AN ORDER AUTHORIZING THE ISSUE OF CAPITAL STOCK.

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Application No. 2388.

*Decided October 16, 1917.*

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BY THE COMMISSION.

**ORDER DENYING PETITION FOR REHEARING.**

*It is hereby ordered* that the petition for rehearing herein be and the same is hereby denied and that the amended application herein be and the same hereby is dismissed without prejudice.

Dated at San Francisco, California, this sixteenth day of October, 1917.

## DECISION No. 4757.

IN THE MATTER OF THE APPLICATION OF THE NORTHWESTERN  
PACIFIC RAILROAD COMPANY FOR PERMISSION TO INCREASE  
FREIGHT RATES.

Application No. 3151.

Decided October 16, 1917.

Petition for permission to increase freight rates San Francisco to Shellville Junction, Sebastopol and Forestville and to establish a charge on returning empties granted, provided that the proposed increase San Francisco to Petaluma is held to be slightly excessive and a modified schedule established by the commission is made effective within thirty days.

*Stanley Moore*, for the Northwestern Pacific Railroad Company.

*Seth Mann*, for San Francisco Chamber of Commerce.

*Sapiro, Neylan & Ehrlich*, for Poultry Producers of Central California.

LOVELAND, *Commissioner*.

## OPINION.

This is an application under section 63 of the Public Utilities Act for authority to increase certain class and commodity rates, as set forth in "Exhibit A" appended to and made a part of the application.

The area embraced in application extends from San Francisco to Shellville Junction, Sebastopol and Forestville, and is practically coterminus with the territory served by the Petaluma and Santa Rosa Railway, which has filed a similar petition. For convenience, these applications were consolidated and heard at the same time.

Of the more important changes contemplated may be mentioned the proposed cancellation of free rates for empty carriers, returning, allowing 15 per cent of class rates applicable to new package to apply thereafter and the changes in class rates between San Francisco and Petaluma which rates, present and proposed, are stated in cents per 100 pounds as follows:

	1	2	3	4	5	A	B	C	D	E
Present -----	14	9	7	5	5	5	5	5	5	5
Proposed -----	17	14	11	10	9	9	8	7	6	5
Increase -----	3	5	4	5	4	4	3	2	1	---

Applicant, in support of its request to increase rates, urges same reasons as its copetitioner, the Petaluma and Santa Rosa Railway, namely, that present rates are insufficient to yield revenue commensurate with the cost of operation.

An exhibit was introduced comparing the income for first seven months of 1917 with same period for 1916, which showed a profit of

\$6,477.54 for 1916 and a deficit of \$64,236.30 for 1917 or a decrease in revenue of \$70,713.84. .

While this statement of earnings and expenses comprehends the entire line of petitioner, which extends from San Francisco north to Trinidad, a distance of 310 miles, and therefore not an absolute index of the earnings in this particular territory, at the same time it reflects the condition of the different units of this property and will therefore be accepted and valued accordingly.

The question of cancellation of free rate for empty carriers, returning, needs little discussion, as it is practically recognized that each transaction should stand on its own foundation and some charge be made for return of empties.

Instead of including this in the rate for the loaded movement, it should be separately stated. As to the reasonableness *per se* of this charge, 15 per cent of class rate for the new package, there can be no question, and it is uniform with the practice of most of the rail carriers in this state.

The class scale between San Francisco and Petaluma was established many years ago pursuant to action of the water carriers serving these points. At that time little regard was given to the volume of rates, the principal thought being to secure the traffic without a due consideration to possible increase in maintenance and operating expense.

The report in Application No. 3096 of the Petaluma and Santa Rosa Railway Company discusses the greatly increased cost of operation between San Francisco and Petaluma, and the need of more revenue if an adequate and efficient service is to be continued.

The comparison of rates and other analyses of the situation between San Francisco and Petaluma, set forth in our decision, *supra*, is applicable to this proceeding with even greater force, for this petitioner performs a more expensive service by its water and rail route than that rendered by its water competitor.

The reasons given for the increases by the Petaluma and Santa Rosa Railway Company are equally applicable to the instant case and it is apparent that the interests of public convenience and necessity require that some relief be granted, else these communities can not continue to enjoy the excellent service via the two carriers which they now receive and upon which a large business has been established.

In justice to other traffic, these rates between San Francisco and Petaluma should be increased, although, as in the case of the Petaluma and Santa Rosa Railway, *supra*, it does not appear that the entire increase asked for is necessary.

As to the other advances, the rates in and of themselves are not unreasonable. They are spread over the territory affected and distributed amongst the different classes of traffic in an equitable manner.

This applicant relied almost entirely upon the testimony and exhibits of its copetitioner, the weaker line, and failed to make a complete showing on its own behalf.

However, in deciding a case of this kind, consideration must be given to the whole territory and not altogether to the needs of one carrier, and while the Northwestern Pacific Railroad Company, with its large mileage and revenue, can absorb freight inequalities attributable to a part of its service, the same relief can not be secured by its smaller and less fortunate competitor. The rates must be reasonable when applied to the entire situation and not alone based on the necessities of one carrier, for the community would not prosper and grow if either one of these lines should, because of lack of income, materially reduce its service.

Upon consideration of all the facts in this record I am of the opinion that the present rates are unreasonable and that the application should be granted, with the exception of the proposed class rates between San Francisco and Petaluma and that the rates between these points should be as follows:

	1	2	3	4	5	A	B	C	D	E
	15	12	9	9	8	8	7	6	5	5

#### ORDER.

The Northwestern Pacific Railroad Company, having applied under section 63 of the Public Utilities Act for authority to increase certain freight rates, as shown in the opinion preceding this order, and a public hearing having been held and the commission being fully apprised in the premises, it finds as a fact that the existing freight rates covered by this application are unremunerative and that the rates herein established are just and reasonable. Basing its order on the foregoing finding of fact and on the further findings of fact contained in the opinion which precedes this order,

*It is hereby ordered* that the Northwestern Pacific Railroad Company be and the same is hereby authorized within thirty (30) days from the date of this order to file with the Railroad Commission and thereafter charge the following rates:

#### *Class Rates in Cents per 100 Pounds.*

	1	2	3	4	5	A	B	C	D	E
Between San Francisco, Shellville Junction, Tiburon and Petaluma-----	15	12	9	9	8	8	7	6	5	5

and to otherwise amend and modify its freight tariffs as set forth in "Exhibit A" attached to and made a part of the application.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the state of California.

Dated at San Francisco, California, this sixteenth day of October, 1917.

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Decisions Nos. 4758, 4759, 4760 and 4761, grade crossings; not printed. See end of volume.

DECISION No. 4762.

IN THE MATTER OF THE APPLICATION OF THE PEOPLE OF THE STATE OF CALIFORNIA ON RELATION OF THE DEPARTMENT OF ENGINEERING FOR AN ORDER AUTHORIZING THE CONSTRUCTION OF A STATE HIGHWAY OVER THE TRACKS OF THE ATCHISON, TOPEKA AND SANTA FE RAILWAY COMPANY AT RIVERBANK, IN STANISLAUS COUNTY, CALIFORNIA.

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Application No. 3194.

*Decided October 16, 1917.*

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Applicant granted permission to construct an overhead crossing over tracks of Santa Fe Railway Company at Riverbank, the expense thereof to be borne 50 per cent by the railroad company and 25 per cent each by Stanislaus County and the State Highway Commission.

*C. C. Carleton, for Applicant.*

*J. W. Walker, for The Atchison, Topeka and Santa Fe Railway Company.*

*E. A. Johnson, for county of Stanislaus.*

*R. W. Hobart, Burton Smith and P. H. Griffin, for Oakdale Irrigation District.*

*GORDON, Commissioner.*

**OPINION.**

In this application the State Highway Commission seeks permission to construct an overhead crossing of the tracks of The Atchison, Topeka and Santa Fe Railway Company near Riverbank, and asks the commission to apportion the expense between the Highway Commission, the railroad company, Stanislaus County and the Oakdale Irrigation District. A public hearing was held on this application on October 13, 1917.

The road on which this crossing is desired is a lateral of the state highway system extending from Salida to Oakdale in Stanislaus County, which has been laid out to cross the tracks of the Santa Fe Railway Company, in the town of Riverbank, at the point where the track is in a cut, and the surrounding country lends itself readily to grade separation. No objection was made to the construction of an



overhead bridge at this point, and there appears to be no reason why this application should not be granted.

The proper division of the cost of the bridge itself is easily disposed of, as the parties involved agreed to the apportionment as set forth in the application and which will be covered in the order. The Oakdale Irrigation District, however, owns an irrigation siphon which crosses the railroad track at a point directly under the bridge which the railroad company desires to have moved, although it does not wish to participate in the necessary expense.

Witnesses for the irrigation district and the Highway Commission testified that the siphon could safely be left in its present location and the bridge built over it, which is the opinion of the engineers of the Railroad Commission, and this, I believe, should be done. The railroad company can, if it desires, have the siphon moved by standing the expense.

I recommend the following form of order:

**ORDER.**

The People of the State of California, on Relation of the Department of Engineering, having applied for permission to construct an overhead crossing over the track of The Atchison, Topeka and Santa Fe Railway Company at Riverbank, California, and having asked the Railroad Commission to apportion the expense of the same, and a public hearing having been held, and it appearing to the commission that this application should be granted subject to certain conditions and that the expense of this construction should be divided between the parties in accordance with the following order,

*It is hereby ordered* that the People of the State of California, on the Relation of the Department of Engineering, be and the same hereby are granted permission to construct a state highway above the track of The Atchison, Topeka and Santa Fe Railway Company at Riverbank, at the point more particularly shown by the map attached to the application, subject to the following conditions:

(1) The overhead bridge shall in all clearances conform to the Railroad Commission's General Order No. 26.

(2) The expense of the construction of said overhead crossing, on the plans now presented, shall be borne fifty (50) per cent by The Atchison, Topeka and Santa Fe Railway Company; twenty-five (25) per cent by Stanislaus County; twenty-five (25) per cent by the State Highway Commission.

(3) The Railroad Commission reserves the right to make such further orders relative to the location, construction, operation, maintenance and protection of said crossing as to it may seem right and proper, and to revoke its permission if, in its judgment, the public convenience and necessity demand such action.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the state of California.

Dated at San Francisco, California, this sixteenth day of October, 1917.

Decision No. 4763, grade crossing; not printed. See end of volume.

DECISION No. 4764.

IN THE MATTER OF THE APPLICATION OF V. W. MATHEU FOR CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY TO OPERATE STAGE SERVICE BETWEEN HOLLISTER AND WATSONVILLE.

Application No. 3117.

Decided October 19, 1917.

A petition for permission to operate a stage line between two points will not be denied on the grounds that such line will parallel an existing line for several miles of its route, incidentally carrying a few passengers between intermediate points, particularly when applicant proposes to operate principally for through traffic and public necessity requires such service. Applicant granted certificate permitting operation of auto bus service between Hollister and Watsonville and intermediate points, provided all necessary permits from local authorities are secured.

*Thomas E. O'Donnell*, for Applicant.

*G. H. Moore*, for Mark J. Regan, Protestant.

BY THE COMMISSION.

OPINION.

V. W. Matheu applies for a certificate that public convenience and necessity require him to operate passenger stage service between Watsonville and Hollister, a distance of 25.5 miles.

A public hearing in the matter was held by Examiner Westover at Watsonville.

The Southern Pacific Company was notified of the hearing, but did not appear and is, apparently, not interested.

Applicant has been engaged since June 16 last in operating a stage line, making two round trips each day between Watsonville and Hollister, with an eight-passenger car, under a schedule and rates filed with the commission. He has operated on schedule time daily. His present schedule, which he wishes to continue, and his fares are as follows:

SCHEDULE.

Watsonville, San Juan Hollister, and Way Stations.

East-bound (read down)		Stations		West-bound (read up)
7.00 a.m.—1.00 p.m.	Lv.	Watsonville	Ar.	10.30 a.m.—5.30 p.m.
7.25 a.m.—1.25 p.m.	Lv.	Aromas	Lv.	10.05 a.m.—5.05 p.m.
7.35 a.m.—1.35 p.m.	Lv.	Chittenden	Lv.	9.55 a.m.—4.55 p.m.
8.00 a.m.—2.00 p.m.	Lv.	San Juan	Lv.	9.30 a.m.—4.30 p.m.
8.30 a.m.—2.30 p.m.	Ar.	Hollister	Lv.	9.00 a.m.—4.00 p.m.

*Fares.*

Miles	Between stations	One-way fares				
		Watsonville	Aromas	Chittenden	San Juan	Hollister
0.0	Watsonville (341 Main st.)-----		\$0.30	\$0.45	\$0.80	\$1.25
7.4	Aromas -----	\$0.30		.15	.50	1.00
10.6	Chittenden -----	.45	.15		.35	.85
17.5	San Juan -----	.80	.50	.35		.50
25.5	Hollister (532 San Benito)-----	1.25	1.00	.85	.50	

*Round Trip Fares.*

Watsonville to Hollister or Hollister to Watsonville-----	\$2 25
Watsonville to San Juan or San Juan to Watsonville-----	1 40
Hollister to San Juan or San Juan to Hollister-----	75

*Excursion Week-end Rate.*

Watsonville to Hollister or Hollister to Watsonville-----	\$2 00
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From the evidence it appears that his business is growing and that there is good prospect of its becoming successful, and the service continuous and permanent. On several occasions applicant has engaged other cars to make the run when his car has been out of repair, thus indicating a desire to discharge his public duties as a common carrier regularly.

It was stipulated that for the purpose of this proceeding the population of Hollister and vicinity is 3,500; San Juan and vicinity, 700; Aromas and vicinity, 350; and Watsonville and vicinity, about 10,000.

The application is opposed by Mark J. Regan, who, for forty-seven years, has operated a stage line between Hollister and Sargent, where his line connects with the Southern Pacific trains. About eleven miles of his route is identical with that of applicant, being from Hollister to San Juan, about eight miles, and northerly on the state highway about three miles, to a point where the road to Aromas leads to the west. There are other stage lines operating between Hollister and San Jose and between San Francisco and Los Angeles, all serving the same eleven miles of applicant's route. All were operating prior to May 1, 1917. Applicant's line alone serves the route from said point on the state highway westerly to Aromas, about eight miles, and to Watsonville, about fourteen miles.

The position of protestant is that the easterly eleven miles of applicant's route is already well served and that an additional line is not needed in that territory. This does not sufficiently consider the public convenience in the matter of through travel between Hollister and Watsonville. Applicant carries but few local passengers on said eleven miles of his route. He averages about one passenger a day between

Hollister and San Juan, about three a month between San Juan and the junction with the Aromas road, an average of two a day between said junction and Aromas, about eight per day between Aromas and Watsonville, and an average of twelve per day through passengers between Hollister and Watsonville. Applicant seeks through business. He contemplates later extending his line to Santa Cruz. His local business is incidental and small in amount.

It is apparent that it would not be in the interest of public convenience to prevent applicant serving that portion of the route between San Juan and Hollister. There is a public demand for through service between Hollister and Watsonville. To require passengers wishing to make a through trip between distant points to make a number of transfers en route, or a series of local trips, would result in public inconvenience rather than public convenience.

#### ORDER.

V. W. Matheu having filed herein a petition asking that the Railroad Commission declare that public convenience and necessity require the operation by said Matheu of the automobile transportation service hereinafter described, a public hearing having been held thereon, and the matter being submitted and now ready for decision, the Railroad Commission hereby finds as a fact that public convenience and necessity require the said service.

Basing its order on the foregoing finding of fact and on the other findings of fact contained in the opinion which precedes this order,

The Railroad Commission hereby declares that public convenience and necessity require the operation by V. W. Matheu of an automobile service for the common carriage of passengers and express packages between Watsonville, Santa Cruz County, and Hollister, San Benito County; provided, that this declaration shall not become effective until said Matheu has procured from the Railroad Commission a supplemental order herein reciting that said Matheu has filed herein certified copies of permits from the counties of Santa Cruz and San Benito and the cities of Watsonville and Hollister, as provided by section 3 of chapter 213, laws of 1917; and provided, further, that the rights and privileges herein granted shall not be assigned or transferred unless the written consent of the Railroad Commission to such assignment or transfer has first been procured.

Dated at San Francisco, California, this nineteenth day of October, 1917.

## DECISION No. 4765.

IN THE MATTER OF THE APPLICATION OF J. E. MOORE FOR CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY TO OPERATE STAGE OR TRUCK SERVICE BETWEEN VISALIA AND PORTERVILLE.

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Application No. 3201.

*Decided October 19, 1917.*

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Applicant granted a certificate permitting the operation of auto bus service between the cities of Visalia and Porterville and intermediate points, provided all necessary permits are secured from local authorities.

*J. E. Moore, in propria persona.*

*F. E. Bratt, for Pioneer Stage Company.*

BY THE COMMISSION.

## OPINION.

J. E. Moore applies for certificate that public convenience and necessity require him to operate an automobile stage and express line between Visalia and Porterville via Farmersville, Exeter, Lindsay and Strathmore, all in Tulare County, a total distance of about 31 miles.

A public hearing in the matter was held by Examiner Westover at Visalia.

Applicant has not operated over the route in question. He proposes to operate a ten-passenger high class easy riding car two round trips a day. For about eight months he has been operating a line from Visalia to Fresno, a distance of about 42 miles over paved roads. His operating revenues and expenses on his Fresno line and the movement of passengers give a fair basis for determining the need for and probable chances for success of his proposed new line. We will therefore discuss applicant's Fresno-Visalia business.

He operates between Visalia and Fresno two high-class eight-passenger cars, each making two round trips a day and carrying 20 or 25 passengers each way each day. Of these an average of about 14 per day each way originate at or are destined to points south of Visalia, distributed about as follows:

To Exeter, 3; to Lindsay, 4; to Porterville, 7.

At present these passengers are transferred at Visalia to stages of the Pioneer Stage Company and the Visalia, Porterville and Bakersfield Stage Company. With the former company, applicant has an arrangement by which his through passengers are given preference. With the latter company, however, preference is given to their through Bakersfield passengers with the result that sometimes applicant's passengers from his Fresno line can not be accommodated.

Applicant's proposed fares are as follows:

Miles	Between—	Visalia	Farmers- ville	Exeter	Lindsay	Strath- more	Porter- ville
7	Farmersville -----	\$0.25					
	Round trip -----	.40					
4	Exeter -----	.35	\$0.25				
	Round trip -----	.60	.40				
9	Lindsay -----	.60	.40	\$0.25			
	Round trip -----	1.00	.70	.40			
5	Strathmore -----	.75	.65	.45	\$0.25		
	Round trip -----	1.30	1.20	.75	.40		
6	Porterville -----	.90	.80	.60	.35	\$0.25	
	Round trip -----	1.60	1.40	1.00	.60	.40	

The schedule under which he proposes to operate is as follows:

Daily	Going south		Daily	Going north	
	A. M.	P. M.		A. M.	P. M.
Leave Visalia -----	11.00	6.45	Leave Porterville -----	9.30	3.00
Leave Exeter -----	11.30	7.15	Leave Strathmore -----	9.45	3.15
Leave Lindsay -----	12.00	7.45	Leave Lindsay -----	10.00	3.30
Leave Strathmore -----	12.15	8.00	Leave Exeter -----	10.30	4.00
Arrive Porterville -----	12.30	8.15	Arrive Visalia -----	11.00	4.30

His equipment is a Packard Twin-Six car seating ten passengers.

All of the transportation agencies interested in the territory in question, including stage lines and the Southern Pacific Company, were notified of the hearing. The only appearance on behalf of others who might be interested was that of F. E. Bratt, operating the Pioneer Stage Line from Visalia to Porterville. He stated that he was only interested to see what schedule applicant proposed to operate under. He stated that he had no objection to the granting of the application to operate on the schedule attached to the application; that the existing schedules of trains and stages and that proposed by applicant would not conflict; that these schedules were arranged to give the best service to the traveling public, and that he considered there was great need for additional stage service under the schedule proposed.

Applicant states that he has faithfully maintained his Fresno schedule and that he is prepared to maintain the schedule proposed and owns a Cadillac Eight car which he would use, if his Packard car should be out of repair. He states that he is prepared to suffer a loss from the new line while the business is being established, and that he understands that if the application is granted he will be under obligation to serve the public until relieved from that obligation by the Railroad Commission.

**ORDER.**

J. E. Moore having filed herein a petition asking that the Railroad Commission declare that public convenience and necessity require the said Moore to establish and operate an automobile stage service for the transportation of passengers and express packages between Visalia and Porterville and intermediate points, and a public hearing having been held thereon and the matter having been submitted, and being now ready for decision,

The Railroad Commission hereby declares that public convenience and necessity require the establishment and operation by said J. E. Moore of an automobile stage service for transportation of passengers and express packages between Visalia and Porterville and intermediate points; provided, that this declaration shall not become effective until said Moore has procured from the Railroad Commission a supplemental order herein, reciting that said Moore has filed herein certified copies of permits from the county of Tulare and the cities of Visalia, Exeter, Lindsay and Porterville, as required by section 3, chapter 213, laws of 1917; and provided, further, that the rights and franchises herein granted shall not be assigned or transferred unless the written consent of the Railroad Commission to such assignment or transfer has first been secured.

Dated at San Francisco, California, this nineteenth day of October, 1917.

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**DECISION No. 4766.**

**IN THE MATTER OF THE APPLICATION OF THE NORTHWESTERN AUTO STAGE COMPANY FOR CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY TO OPERATE STAGE SERVICE BETWEEN PETALUMA, SANTA ROSA AND SAUSALITO AND WAY POINTS.**

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**Application No. 3155.**

*Decided October 19, 1917.*

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Applicants granted a certificate permitting the operation of auto bus service between the cities of Sausalito and Santa Rosa and intermediate points, provided all necessary permits are secured from local authorities.

*Elmer E. Decker*, for Applicant.

*J. J. Geary and Stanley Moore*, for Northwestern Pacific Railroad Company.

BY THE COMMISSION.

**OPINION.**

Elmer E. Decker and Paul Dongan, partners in business, under the name of the Northwestern Auto Stage Company, apply for a certificate

that public convenience and necessity require them to operate an automobile passenger stage line between Sausalito, Santa Rosa and intermediate points.

A public hearing in the matter was conducted at Sausalito by Examiner Westover.

Notice of the hearing was sent to all other transportation lines operating in the same territory, but only the Northwestern Pacific Railroad Company made appearance. No objection to the operation of the new line was expressed by the railroad company, but only to the fact that the similarity of names had already led to some confusion, and there was an objection to the name for that reason. Applicants stated that the objection having been expressed to them, they had arranged a change in name which will appear on their new literature, the line to be known as the Santa Rosa, Sausalito and Petaluma Stage Line, or a similar name.

Since July 26, 1917, applicants have been operating two nine-passenger Packard touring cars between Sausalito and Santa Rosa, a distance of about fifty-three miles, under rates and time schedules filed with the commission. Their fares and schedules are as follows:

**FARES.**  
**One-way Fares.**

Miles	Between stations—	Santa Rosa	Petaluma	Novato	Ignacio	San Rafael
0	Santa Rosa -----					
16	Petaluma -----	\$0.50				
27	Novato -----	.65	\$0.30			
30	Ignacio -----	.80	.40	\$0.25		
38	San Rafael -----	.95	.65	.45	\$0.35	
53	Sausalito -----	1.25	1.00	.75	.50	\$0.35

**ROUND TRIP.**

Between Sausalito and Santa Rosa-----	\$2 25
Between Sausalito and Petaluma-----	1 75

**TIME SCHEDULE.**

**Southbound—**

Leave Santa Rosa -----	9.30 a.m.	11.30 a.m.	3.30 p.m.	7.30 p.m.
Leave Petaluma -----	10.15 a.m.	12.15 a.m.	4.15 p.m.	8.15 p.m.
Leave Novato -----	10.45 a.m.	12.45 p.m.	4.45 p.m.	8.45 p.m.
Leave Ignacio -----	10.55 a.m.	12.55 p.m.	4.55 p.m.	8.55 p.m.
Leave San Rafael -----	11.20 a.m.	1.30 p.m.	5.30 p.m.	9.20 p.m.

**Northbound—**

Boat leaves San Francisco-----	11.45 a.m.	3.45 p.m.	7.15 p.m.	11.30 p.m.
Leave Sausalito -----	12.20 p.m.	4.20 p.m.	7.50 p.m.	12.05 a.m.
Leave San Rafael -----	1.00 p.m.	5.00 p.m.	8.30 p.m.	12.45 a.m.
Leave Ignacio -----	1.25 p.m.	5.25 p.m.	8.55 p.m.	1.05 a.m.
Leave Novato -----	1.35 p.m.	5.35 p.m.	9.05 p.m.	1.15 a.m.
Leave Petaluma -----	2.05 p.m.	6.05 p.m.	9.35 p.m.	1.40 a.m.
Arrive Santa Rosa -----	2.50 p.m.	6.50 p.m.	10.15 p.m.	2.10 a.m.

The cars connect with the Northwestern Pacific ferry boats from San Francisco. On the first two trips from Sausalito the stages leave an hour after the trains of the Northwestern Pacific leave for Santa Rosa.



The last two trips are made after all of that day's trains of the Northwestern Pacific have departed. This schedule has been faithfully maintained since it was adopted about August 2.

On the afternoon trips applicants carry an average of three through passengers per trip northbound and about six passengers per trip southbound. On the two evening trips they have full loads, and sometimes more, with much heavier travel on Saturday and Sunday nights. These facts indicate a public need for the service.

Applicants expect to develop a paying business, especially after the state highway is completed in the territory served. The evidence indicates that the service will probably be continuous and permanent, as applicants are prepared to suffer a loss until the business becomes remunerative.

#### ORDER.

Elmer E. Decker and Paul Dongan, partners in business, under the name of the Northwestern Auto Stage Company, having filed herein a petition asking that the Railroad Commission declare that public convenience and necessity require the operation by said Northwestern Auto Stage Company, of the automobile transportation service hereinafter described, a public hearing having been held thereon, and the matter being submitted and now ready for decision, the Railroad Commission hereby finds as a fact that public convenience and necessity require the said service.

Basing its order on the foregoing finding of fact and on the other findings of fact contained in the opinion which precedes this order,

The Railroad Commission hereby declares that public convenience and necessity require the operation by Northwestern Auto Stage Company, of an automobile service for the common carriage of passengers and express packages between Santa Rosa, Sonoma County, and Sausalito, Marin County, and intermediate points; provided, that this declaration shall not become effective until said Northwestern Auto Stage Company has procured from the Railroad Commission a supplemental order herein reciting that said Northwestern Auto Stage Company has filed herein certified copies of permits from the counties of Sonoma and Marin and the cities of Santa Rosa, Petaluma, San Rafael and Sausalito, as provided by section 3 of chapter 213, laws of 1917; and provided, further, that the rights and privileges herein granted shall not be assigned or transferred unless the written consent of the Railroad Commission to such assignment or transfer has first been procured.

Dated at San Francisco, California, this nineteenth day of October, 1917.

## DECISION No. 4767.

IN THE MATTER OF THE APPLICATION OF THE PACIFIC TELEPHONE AND TELEGRAPH COMPANY FOR AUTHORITY TO PURCHASE TRUST DEED CERTIFICATES REPRESENTING PREFERRED CAPITAL STOCK OF THE UNITED STATES LONG DISTANCE TELEPHONE AND TELEGRAPH COMPANY.

Application No. 3202.

*Decided October 20, 1917.*

Pacific company granted permission to purchase, on or before August 1, 1918, at \$60.00 per share, trust certificates representing \$500,000.00 par value preferred stock of the United States Company, provided the price paid therefor shall not be binding upon this commission or other public bodies as having bearing upon the value of the property for rate fixing or other purposes.

*Pillsbury, Madison & Sutro and James T. Shaw, by H. D. Pillsbury,*  
for Applicant.

EDGERTON, *Commissioner.*

## OPINION.

In this application The Pacific Telephone and Telegraph Company asks authority to purchase at \$60.00 per share trust certificates representing the preferred capital stock of the United States Long Distance Telephone and Telegraph Company.

The United States Long Distance Telephone and Telegraph Company was organized in 1902. It has an authorized stock issue of \$3,000,000.00, divided into 30,000 shares of the par value of \$100.00 each; 25,000 shares represent common and 5,000 shares represent 4 per cent preferred stock. All of the company's stock is outstanding. The stock is lodged with a board of voting trustees under an agreement dated May 30, 1903, amended in 1905. The voting trustees have issued to the stockholders trust certificates. The Pacific Telephone and Telegraph Company reports that since December 1, 1911, it has owned all of the trust certificates representing the \$2,500,000.00 of outstanding common stock of the United States Long Distance Telephone and Telegraph Company. It now desires authority to purchase the trust certificates representing the \$500,000.00 of 4 per cent preferred stock. The testimony shows that it has options to purchase trust certificates at \$60.00 per share representing 4,568 shares of the preferred stock. It is willing to purchase the remaining trust certificates, representing 432 shares of the preferred stock, upon the same terms. The price of \$60.00 per share for this preferred stock is not based on a valuation of the property of United States Long Distance Telephone and Telegraph Company, but applicant is willing to pay this price because of a belief

that the ownership of the stock would be financially more favorable than to pay dividends thereon.

It appears that the purchase of the preferred stock by the Pacific company is not necessary to give it control of the United States Long Distance Telephone and Telegraph Company. The Pacific company reports that the main reason why it desires to acquire the preferred stock is to consolidate the stock interest in the United States Long Distance Telephone and Telegraph Company and thus obviate any possible chance of any question arising in the minds of any minority stockholders as to the fairness of any division of toll line business of subscribers who have access to the lines of either The Pacific Telephone and Telegraph Company or the United States Long Distance Telephone and Telegraph Company. G. E. McFarland, president of The Pacific Telephone and Telegraph Company, testified that his company contemplates no change in its policy toward the independent companies as a result of the acquisition of the preferred stock of the United States Long Distance Telephone and Telegraph Company.

I recommend that this application be granted and herewith submit the following form of order:

#### **ORDER.**

The Pacific Telephone and Telegraph Company having applied to the Railroad Commission for authority to purchase trust certificates representing \$500,000.00 par value of preferred capital stock of the United States Long Distance Telephone and Telegraph Company, and a hearing having been held and the Railroad Commission being of the opinion that this application should be granted,

*It is hereby ordered* that The Pacific Telephone and Telegraph Company be and it is hereby granted authority to purchase on or before August 1, 1918, at \$60.00 per share, trust certificates representing 5,000 shares of 4 per cent preferred capital stock of the United States Long Distance Telephone and Telegraph Company.

The authority hereby granted is granted upon the following conditions and not otherwise:

1. The price at which The Pacific Telephone and Telegraph Company is authorized to purchase the preferred stock of United States Long Distance Telephone and Telegraph Company shall not be binding upon this commission, or other public body, as a finding of value of said preferred stock, or of the properties of said United States Long Distance Telephone and Telegraph Company.

2. The Pacific Telephone and Telegraph Company shall file with the Railroad Commission on or before the twenty-fifth day of each month a statement showing the amount of trust certificates acquired during the month preceding the filing of the report and the price paid therefor.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the state of California.

Dated at San Francisco, California, this twentieth day of October, 1917.

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DECISION No. 4768.

IN THE MATTER OF THE APPLICATION OF CHESTER LYONS FOR  
CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY TO  
OPERATE STAGE OR TRUCK SERVICE BETWEEN OAKLAND AND  
WALNUT CREEK.

---

Application No. 3147.

*Decided October 20, 1917.*

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Petition for permission to operate an auto bus for transportation of passengers between Oakland and Walnut Creek via Hayward and Dublin denied on the grounds that the territory in question is being adequately served by both steam and electric railroads.

*Chester Lyons, in propria persona.*

*Jesse H. Steinhart*, for Oakland, Antioch and Eastern Railway Company, Protestant.

BY THE COMMISSION.

**OPINION.**

Chester Lyons applies for a certificate that public convenience and necessity require him to operate automobile service for the transportation of passengers between Oakland and Walnut Creek via Hayward and Dublin, a distance of about 40 miles. A public hearing in the matter was held by Examiner Westover at Oakland.

Applicant owns a second-hand car seating seven passengers beside the driver, which he proposes to operate himself over the route. He has had no experience in operating a stage over this line but has driven over it. He was unable to furnish any data showing a need for the service, the probable revenue or expense of rendering it, or the probability of its becoming permanent. No application has yet been made to the proper authorities of the cities and counties interested, for a permit as required by section 3, chapter 213, laws of 1917.

The communities in question are already served by steam or electric railroads. Dublin, which is about one and one-half miles from Dougherty on the Southern Pacific, would, however, be served directly by stage.

Applicant proposes to make one round trip each day, leaving Oakland at 8.30 a.m., arriving at Walnut Creek at 10.45 a.m., leaving Walnut Creek at 12.30 p.m. and arriving at Oakland at 2.45 p.m. His proposed fares are 25 cents to Hayward, 15.1 miles; 75 cents to Dublin,

24.8 miles; \$1.00 respectively to San Ramon, 30.8 miles; Danville, 34.1 miles; and Alamo, 36.8 miles; and 75 cents to Walnut Creek, 40.3 miles. It will be noticed that the proposed fares to Dublin, 24.8 miles, and to Walnut Creek, 40.3 miles, are the same. No round trip or commutation rates are proposed.

The Oakland, Antioch and Eastern Railway operates seven trains daily in each direction between Oakland and Walnut Creek, a distance of 19.5 miles, with frequent service over the Danville branch, total mileage from Oakland 24.9 miles. The Walnut Creek rate is 80 cents one way and \$1.10 round trip on Wednesdays, Saturdays and Sundays, with a commutation rate of \$7.05 per month. The commutation rate to Danville is \$8.95 per month. The rate per mile under these commutation rates is 6 mills, or 11 $\frac{1}{3}$  cents per trip between Oakland and Walnut Creek, and 15 cents per trip between Oakland and Danville. The one way rate to Walnut Creek equals nearly 3.9 cents per mile by rail and about 1.86 cents per mile by applicant's proposed stage rate. We are satisfied that applicant can not successfully operate upon this rate under existing conditions, and that the proposed stage service would prove but temporary. It was urged that there should be additional transportation service to favor workmen living in Walnut Creek and employed in Oakland. The electric line's first car leaves Walnut Creek at 6.21 a.m. and reaches Fortieth and Shafter street, Oakland, at 7.03 a.m., the next car leaving at 7.30 a.m. and arriving at 8.22 a.m., apparently better serving such needs than applicant proposes to do.

It was also urged that the proposed stage line will afford opportunities for pleasure trips to people who do not own automobiles. Such need may be supplied by private enterprises operating automobiles for hire, or a so-called taxicab service, neither of which is under the jurisdiction of the Railroad Commission.

A petition by Walnut Creek people for stage service between Walnut Creek and Oakland, bearing 51 signatures, was presented at the hearing. The petition does not contain any statement of the reason for favoring such service.

There was also presented evidence that the Merchants Association of Walnut Creek, the Chamber of Commerce of Concord and Lafayette Improvement Club of Lafayette oppose any stage service to Walnut Creek in the belief that any such service would prove but temporary and by taking part of the one-way fare business would force an increase in commutation rates by the electric system, thus injuring the communities in question. The editor of the local papers at Walnut Creek and Danville and the postmaster at Alamo, near Danville, testified that the service was not needed and that a granting of the application would tend to injure the present service which was described as satisfactory and the rates low.

**ORDER.**

Chester Lyons having applied to the Railroad Commission for certificate that public convenience and necessity require the operation of an automobile service for transporting passengers between Oakland and Walnut Creek via Hayward and Dublin, and a public hearing having been held upon said application, the matter having been submitted and being now ready for decision, the Railroad Commission hereby finds as a fact that public convenience and necessity do not require the operation by petitioner of an automobile stage service, as requested in the petition herein.

Basing its order on the foregoing finding of fact and on the other findings of fact which are contained in the opinion which precedes this order,

*It is hereby ordered* that the above-entitled proceeding be and the same is hereby dismissed.

Dated at San Francisco, California, this twentieth day of October, 1917.

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DECISION No. 4769.

F. HAMMOND

*vs.*

TUJUNGA WATER AND POWER COMPANY.

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Case No. 999.

*Decided October 20, 1917.*

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BY THE COMMISSION.

**ORDER DENYING PETITION FOR REHEARING.**

Complainant having in this proceeding asked for an order requiring Tujunga Water and Power Company to supply him with water, and the commission having found that such a requirement would not be reasonable, and accordingly dismissed the complaint herein on October 23, 1916; and complainant having, on November 3, 1916, filed an application for a rehearing herein, and the commission, on July 21, 1917, having made its order in Application No. 3030, authorizing the lease, with an option to purchase, to the city of Los Angeles of the water system of the Tujunga Water and Power Company, which system is now being operated by the city of Los Angeles as a part of its entire municipal water system; and it appearing that there can be no good purpose for further considering the present proceeding,

*It is hereby ordered* that the application for rehearing herein be and the same is hereby denied.

Dated at San Francisco, California, this twentieth day of October, 1917.

## DECISION No. 4770.

IN THE MATTER OF THE APPLICATION OF MIKE GIMINIANI AND BILL GIMINIANI FOR A CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY TO OPERATE A STAGE OR TRUCK SERVICE BETWEEN BAKERSFIELD AND BUTTONWILLOW, KERN COUNTY, CALIFORNIA.

Application No. 3222.

*Decided October 20, 1917.*

A company or individuals operating an auto stage business upon a regular route and schedule between two points within the state prior to May 1, 1917, need not secure from this commission a certificate permitting such operation as provided by chapter 213, laws of 1917. Applicants having been regularly operating prior to the above date, no certificate necessary, petition dismissed.

*Rowan Irwin*, for Applicants.

*C. C. Haworth*, for Haworth and Kirby, Protestants.

BY THE COMMISSION.

## OPINION.

Petitioners ask the Railroad Commission to make its order declaring that public convenience and necessity require the operation by petitioners of an automobile stage service between Bakersfield and Buttonwillow, Kern County.

A public hearing herein was held before Examiner Westover at Bakersfield on October 15, 1917.

Petitioners have been operating an automobile stage line between Bakersfield and Buttonwillow for approximately four years, originally with one car and have for a period of nearly two years operated two cars over the route.

The schedule appearing in the application in this proceeding shows the following:

Leaves Bakersfield-----	8.00 a.m.	Arrives Buttonwillow----	9.20 a.m.
Leaves Bakersfield-----	3.00 p.m.	Arrives Buttonwillow----	4.20 p.m.
Leaves Bakersfield-----	10.00 p.m.	Arrives Buttonwillow----	11.20 p.m.
Leaves Buttonwillow----	8.30 a.m.	Arrives Bakersfield-----	9.50 a.m.
Leaves Buttonwillow----	1.00 p.m.	Arrives Bakersfield-----	2.20 p.m.
Leaves Buttonwillow----	5.30 p.m.	Arrives Bakersfield-----	6.50 p.m.

Cars have been operated in accordance with the foregoing schedule for the past year and every scheduled trip has been regularly made.

The passenger fares charged by the applicants are in accordance with the following schedule of rates:

Bakersfield to Rosedale -----	\$0 30
Bakersfield to Rio Bravo -----	75
Bakersfield to Burbank -----	1 00
Bakersfield to Buttonwillow -----	1 25
Buttonwillow to Burbank -----	25
Buttonwillow to Rio Bravo -----	50
Buttonwillow to Rosedale -----	95
Buttonwillow to Bakersfield -----	1 25

The evidence in this proceeding clearly indicates that applicants were engaged in the automobile stage business prior to May 1, 1917, have been actually operating in good faith and observing regular routes and schedule, and as the provisions of chapter 213 of the acts of 1917 specifically exempt transportation companies who were operating in good faith prior to May 1, 1917, from the necessity of securing a certificate from this commission, the application will be dismissed.

**ORDER.**

Mike Giminiani and Bill Giminiani, having filed a petition asking that the Railroad Commission make its order declaring that public convenience and necessity require the operation by them of an automobile stage service as a common carrier of passengers between Bakersfield and Buttonwillow, Kern County, a public hearing having been held, the matter having been submitted and it appearing that applicants have been regularly operating a stage line in good faith between Bakersfield and Buttonwillow for some years prior to May 1, 1917, and that no certificate is required from this commission under the provisions of chapter 213 of the acts of 1917,

*It is hereby ordered* that this application be and the same hereby is dismissed.

Dated at San Francisco, California, this twentieth day of October, 1917.

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DECISION No. 4771.

**IN THE MATTER OF THE APPLICATION OF HAPPY VALLEY LAND AND WATER COMPANY AND HAPPY VALLEY IRRIGATION DISTRICT FOR AN ORDER APPROVING LEASE AND OPTION AGREEMENT AND AUTHORIZING THE WATER COMPANY TO SELL AND CONVEY ITS PROPERTY TO THE IRRIGATION DISTRICT.**

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Application No. 3236.

*Decided October 20, 1917.*

The Railroad Commission has no jurisdiction over the rates and service of water to consumers residing within the boundaries of an irrigation district; however, as certain consumers of the water system proposed to be transferred reside outside the boundaries of the district, proposed lease and sale agreement required to be modified so as to provide that present service to outside consumers shall be continued under rates and rules subject to the commission's jurisdiction.

Water company authorized to lease and transfer its properties to the irrigation district, provided agreements are modified as above outlined.

*Roscoe D. Jones*, for Happy Valley Land and Water Company.



*Carr & Kennedy*, by *Francis Carr*, for Happy Valley Land and Water District.

BY THE COMMISSION.

**OPINION.**

The hearing in the above-entitled application was held by Examiner Encell at San Francisco on October 8, 1917.

Happy Valley Land and Water Company asks authority to execute an agreement substantially in the same form as the amended agreement attached to the petition herein and marked "Exhibit A." Under this agreement Happy Valley Land and Water Company proposes to lease its properties described in Exhibit 1, attached hereto, to Happy Valley Irrigation District and give the district an option to purchase the same for \$89,570.00. The district is now taking the necessary steps to call an election to authorize an issue of bonds to obtain funds to acquire the property and construct necessary improvements. It is reported that the district comprises some 18,240 acres of land in the vicinity of Happy Valley, Shasta County.

The lease agreement enables the district to take immediate possession of the properties. The lease terminates on October 1, 1919. The district, however, has an option to renew the lease from year to year to October 1, 1921. The rental during the first year is fixed at \$3,000.00, during the second at \$4,000.00 and during the third and fourth at \$6,000.00 per annum. As above stated, the irrigation district has an option to purchase the properties at any time during the life of the lease.

The record in this proceeding indicates that the district is willing to enter into the aforementioned lease and sale agreement, which in effect requires it to adequately serve with water the mining lands of the lessor or vendor at a rate not in excess of the rate now charged by Happy Valley Land and Water Company for water used for mining purposes. The testimony shows that the Railroad Commission has no jurisdiction over the district so long as it confines the sale of water to patrons within its limits. It appears, however, that the district will sell water to consumers residing outside its boundaries. It is of course understood that as to such consumers service established by Happy Valley Land and Water Company will be continued under rates and rules established by the Railroad Commission. The proposed lease and sale agreement should be modified to this effect.

For a discussion of the value and cost of the properties of Happy Valley Land and Water Company, reference is here made to Decision No. 3212, dated March 30, 1916 (Vol. 9, Opinions and Orders of the Railroad Commission of California, page 461).

**ORDER.**

Happy Valley Land and Water Company having applied to the Railroad Commission for authority to lease and sell its properties to Happy Valley Irrigation District pursuant to the terms of the amended agreement attached to the petition herein and marked "Exhibit A," and a hearing having been held and the Railroad Commission being of the opinion that this application should be granted,

*It is hereby ordered* that Happy Valley Land and Water Company be and it is hereby granted authority to execute a lease and sell its properties described in "Exhibit 1," attached hereto, to Happy Valley Irrigation District pursuant to the terms and conditions of the amended lease and option agreement attached to the petition herein and marked "Exhibit A," provided that said agreement be modified along the lines indicated in the foregoing opinion and a revised copy filed with the Railroad Commission by the Happy Valley Land and Water Company within thirty days after its execution, and provided further that Happy Valley Land and Water Company file with the Railroad Commission a copy of the deed of conveyance transferring its properties to Happy Valley Irrigation District within thirty days after the execution of said deed of conveyance.

Dated at San Francisco, California, this twentieth day of October, 1917.

**EXHIBIT NUMBER ONE.**

Happy Valley Land and Water Company in its "Exhibit Number 11" filed October 8, 1917, describes the properties which it desires to lease and sell as follows:

That certain mining and irrigating ditch and water right taking water out of North fork of Cottonwood Creek about 40 rods below the junction of the Post and Sweede forks of said creek, running thence south 24 miles to a point where was once the Old China Reservoir in Sec. 6 Tp. 31 N. R. 6 W. M. D. M.

Also that certain water ditch and water right taking water out of Eagle Creek about 30 rods below E. Read's house in the S.W.  $\frac{1}{4}$  of Sec. 25 Tp. 31 N. R. 7 W. and running thence southerly about 2 miles and intersecting the main Cottonwood ditch in Sec. 36 Tp. N. R. 7 W. at what is commonly known as Sandgate;

Also that certain water ditch and water right taking water out of the South fork of Clear Creek near the N.W. corner of Sec. 21 Tp. 31 N. R. 6 W. M. D. M. near the house of William Lee; and thence running Southerly about 2 miles intersecting the main Cottonwood ditch at a point in the N.E. corner of Sec. 29 Tp. 31 N. R. 6 W., M. D. M.

Also that certain mining ditch out of Hulen Creek at the point about 20 rods below where the County road crosses said Creek, between the houses of William Richter and Mrs. A. Ruster in Sec. 30 Tp. 31 N. R. 6 W. and running thence about 4 miles to what is known as Gaine's Flat in Sec. 5 Tp. 30 N. R. 6 W. M. D. M.

Also that certain mining ditch and water right taking water out of Eagle Creek in Sec. 2 Tp. 30 N. R. 7 W. about  $\frac{1}{2}$  mile above where the County Road leading to the town of Ono crosses said Creek and running thence Southeasterly about 3 miles to the lands of A. La Bude in the N.W.  $\frac{1}{4}$  of Sec. 18, Tp. 30 N. R. 6 W. M. D. M.

Also that certain water ditch and water right taking water out of the Old China Reservoir and running about 2 miles Easterly to the Cloverdale Reservoir;

Also that certain water ditch and water right taking water out of the Cloverdale Reservoir and running Easterly about 8 miles to the lands of Anna Wightman on the line of the C. P. R. R.

Also that certain ditch taking water out of Cloverdale Reservoir and running thence N.E. about 2 miles to the land owned by George Kluman and known as the Kluman Ranch;

Also that certain ditch out of the ditch above Cloverdale Reservoir and running Easterly about 3 miles to Phillip Martin's Ranch.

Also that certain ditch from the P. Simonson places running Southeast about 5 miles to Epworth Lake Reservoir.

Also those certain reservoirs and reservoir sites used and operated in connection with the above mentioned system of ditches known as the Happy Valley Land and Water Company's ditches and known as and described as follows, to-wit:

The "Cloverdale" Reservoir situate in Sec. 5, Tp. 30 N. R. 5 West, M. D. M.

The "Johnson" Reservoir, situate in Sec. 2 Tp. 30 N. R. 5 W., M. D. M.

The "Anderson" Reservoir situate near the boundary line between Sections 16 and 17, Tp. 30 N. R. 5 West, M. D. M.

The "Olinda" Reservoir, situate in Sec. 22 Tp. 30 N. R. 5 W. M. D. M.

The "Epworth Lake" Reservoir situated in Sec. 23 Tp. 30 N. R. 5 W. M. D. M.

The "Harbison" Reservoir, situate in Sec. 1 Tp. 30 N. R. 6 West M. D. M.

The S.  $\frac{1}{4}$  of N.E.  $\frac{1}{4}$  and S.E.  $\frac{1}{4}$  of Sec. 4 Tp. 30 N. R. 7. W. M. D. M. containing 160 acres of land, known as the Dry Creek Tunnel & Fluming Co.'s ranch.

S.  $\frac{1}{4}$  of N.E.  $\frac{1}{4}$  and N.  $\frac{1}{4}$  of S.E.  $\frac{1}{4}$  of Sec. 1, Tp. 30 N. R. 6 W. M. D. M. 160 acres.

5 $\frac{1}{2}$  acres more or less known as Olinda reservoir more particularly described in deed of M. E. and G. W. Burtner to Happy Valley Land and Water Company, dated May tenth, 1909.

3.9 acres part of Olinda reservoir particularly described in deed of Ross Flintjer to Happy Valley Land and Water Company, dated March twenty-six, 1914, recorded April 10, 1914, in Book 118, page 405, records of Shasta County.

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#### DECISION No. 4772.

IN THE MATTER OF THE APPLICATION OF PRODUCERS GAS AND FUEL COMPANY FOR A CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY.

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Application No. 2742.

*Decided October 20, 1917.*

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BY THE COMMISSION.

#### FIRST SUPPLEMENTAL ORDER.

Whereas the Railroad Commission in Decision No. 4386, dated June 12, 1917, declared that thereafter upon application of Producers Gas and Fuel Company made after said company had secured certain franchises from the city of McKittrick and the county of Kern, it would issue a certificate declaring that public convenience and necessity required the exercise by said company of the rights and privileges conferred by said franchises; and Producers Gas and Fuel Company on August 29, 1917, having filed copies of said franchises with this commission and having made application for said certificate of public convenience and necessity,

The Railroad Commission of California hereby declares that public convenience and necessity require the exercise by Producers Gas and Fuel Company of the rights and privileges conferred by Ordinance No. 35 of the city of McKittrick, adopted April 3, 1917, and Ordinance No. 120 of the county of Kern, adopted April 6, 1917, provided that Producers Gas and Fuel Company shall first have filed with the Railroad Commission a stipulation duly authorized by its board of directors declaring that Producers Gas and Fuel Company, its successors and assigns, will never claim before the Railroad Commission or any court or other public body a value for said rights and privileges in excess of the actual cost to Producers Gas and Fuel Company of acquiring said rights and privileges, which cost shall be set forth in the stipulation, and shall have received from the Railroad Commission a supplemental order declaring that such stipulation has been filed in form satisfactory to the Railroad Commission.

Dated at San Francisco, California, this twentieth day of October, 1917.

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DECISION No. 4773.

IN THE MATTER OF THE APPLICATION OF THE OCCIDENTAL LAND AND IMPROVEMENT COMPANY FOR PERMISSION AUTHORIZING THE SALE AND CONVEYANCE OF ITS TELEPHONE LINE TO SHARON FARMS COMPANY.

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Application No. 3179.

*Decided October 20, 1917.*

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BY THE COMMISSION.

**ORDER.**

Occidental Land and Improvement Company having applied to this commission for authority to transfer to Sharon Farms Company, in accordance with the form of conveyance attached to the application herein and marked Exhibit "B," a certain telephone system, more particularly described in said form of conveyance as follows:

"That certain telephone line situated in the county of Madera, state of California, and extending in a general easterly and westerly direction from the southwest corner of section thirty-one (31), township nine (9) south, range seventeen (17) east, to or near the southeast corner of section thirty-five (35), in said township and range, and running thence in a northerly direction along or parallel to the easterly line of sections thirty-five (35), twenty-six (26), twenty-three (23), fourteen (14) and eleven (11), in said township and range, to the east and west line dividing the north half (N $\frac{1}{2}$ ) of said section eleven (11) from the south half (S $\frac{1}{2}$ ) thereof, and thence in a northeasterly direction to the Kirkpatrick ranch:

with a switchboard at the warehouse of the second party in the town of Sharon, in said county of Madera, and with a lateral branch extending northerly along the section line between sections thirty-one (31) and thirty-two (32) in said township and range to or near the southeast corner of section thirty (30), in said township and range on the Freeman ranch, and with another lateral branch extending southerly into the Dean ranch in section two (2), township ten (10) south, range seventeen (17) east. Together with all poles, wire, boxes, switchboard and appurtenances."

And the commission being of the opinion that this is not a case in which a hearing is necessary and that the application should be granted,

*It is hereby ordered* that the application herein be and the same is hereby granted; provided, that the authority herein granted shall apply only to such conveyance as is made on or before November 30, 1917; and provided, further, that within ten (10) days after any conveyance is made as provided in this order, a certified copy of the executed deed shall be filed with the Railroad Commission.

Dated at San Francisco, California, this twentieth day of October, 1917.

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DECISION No. 4774.

IN THE MATTER OF THE APPLICATION OF THE NAPA VALLEY ELECTRIC COMPANY TO DISCONTINUE THE MANUFACTURE AND SALE OF GAS IN ST. HELENA.

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Application No. 3141.

*Decided October 20, 1917.*

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The Railroad Commission will not grant a petition of a gas company for permission to discontinue service on the grounds that it is operating at a loss when it is shown that service has been so poor as not to warrant a growth in the business. Application denied, and recommendation made that applicant resume service at the earliest possible date and improve its service to a reasonable standard.

*U'Ren & Beard*, by *D. L. Beard*, for Applicant.

*Clarence N. Riggins*, for town of St. Helena.

*F. S. Cairns*, for St. Helena Chamber of Commerce.

EDGERTON, *Commissioner*.

**OPINION.**

This is an application by Napa Valley Electric Company for authorization to discontinue the service of gas in the city of St. Helena, Napa County.

The operation of this plant has not been profitable and applicant bases its request for permission to abandon service on this ground.

Consumers protest against the abandonment of this service and urge that better service be given.

Representatives of the company admit that the service has been very bad but claim that to better the service would involve a further expenditure of money, and they can see no hope of such an increase in business as would justify this additional expenditure.

The evidence at the hearing and investigations made by the engineers of the commission since the hearing convince me that the prime cause of the comparatively small business done by this company (probably by comparison with other like communities the smallest in the state) is due to the wretched service which has been given. I believe that the company should try the experiment of producing reasonably good service before it surrenders and abandons the service altogether.

It would seem that by the expenditure of a few hundred dollars reasonably good service can be produced, and unless we are to assume that the inhabitants of St. Helena are entirely different in their attitude toward the use of gas than in any other community in California, we must assume that better service will produce such additional business as will justify the continuation of the service. Furthermore, the company should consider that an abandonment of service would mean in all probability the complete abandonment of the investment in this plant, as it is certain that if it remains idle for a few years it will have practically no value. On the other hand, the expenditure of a few hundred dollars will probably result in a situation whereby the plant can be maintained, at least operating expenses and depreciation taken care of, with the prospect that as the people become accustomed to a reasonably good gas service the business of the company will become profitable.

Since the hearing in this application the gas holder has been accidentally wrecked, resulting in a total cessation of gas service, but applicant has taken steps to restore service. In this proceeding the commission has power only to deny the application and can not make an affirmative order.

Therefore, I recommend that this application be denied and that Napa Valley Electric Company be advised that it is the desire of the commission that service of gas in St. Helena be resumed at the earliest possible date. Further, that the service of gas be improved up to a reasonable standard and that in the event that the company does not voluntarily comply with the above request, appropriate action be taken by this commission.

Herewith a form of order:

**ORDER.**

Application having been made by Napa Valley Electric Company for authority to cease the service of gas to consumers in the city of St.

Helena, California, a hearing having been had and the commission being fully advised in the premises.

For the reasons set out in the foregoing opinion, the above-mentioned application is hereby denied.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission.

Dated at San Francisco, California, this twentieth day of October, 1917.

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DECISION No. 4775.

IN THE MATTER OF THE APPLICATION OF THE PACIFIC TELEPHONE AND TELEGRAPH COMPANY FOR AN ORDER OF THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA GRANTING IT A CERTIFICATE THAT PUBLIC CONVENIENCE AND NECESSITY REQUIRE THE EXERCISE BY IT OF THE RIGHTS AND PRIVILEGES CONFERRED UPON IT UNDER THE FRANCHISE GRANTED IT BY THE BOARD OF ALDERMEN OF THE CITY OF WATSONVILLE, BY ORDINANCE No. 175 (N. C. S.) ON THE SEVENTEENTH DAY OF JULY, 1917.

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Application No. 3256.

*Decided October 20, 1917.*

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BY THE COMMISSION.

**ORDER.**

The Pacific Telephone and Telegraph Company having applied to the Railroad Commission for a certificate declaring that public convenience and necessity require the exercise by it of the rights and privileges conferred upon it by the city of Watsonville in Ordinance No. 175 (new charter series), which ordinance grants to said company, its successors and assigns the right to place, erect and maintain poles, wires and other appliances and conductors and to lay underground conduits for wires for the transmission of electricity for telephone and telegraph purposes in, upon and under the streets, alleys, avenues, thoroughfares and public highways in the city of Watsonville, and to exercise the privilege of operating telephone and telegraph instruments and of doing a telephone and telegraph business within said city. And it appearing to the commission that this is not a case in which a public hearing is necessary,

*It is hereby declared* that public convenience and necessity require the exercise by The Pacific Telephone and Telegraph Company of the rights and privileges conferred upon it by the city of Watsonville in Ordinance No. 175 (new charter series), provided that applicant shall never claim before the Railroad Commission or any other public body

a value for said franchise for rate fixing or other purposes in excess of the actual cost thereof, which it appears from the application amounted to \$400.00.

Dated at San Francisco, California, this twentieth day of October, 1917.

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DECISION No. 4776.

IN THE MATTER OF THE APPLICATION OF THE PACIFIC TELEPHONE AND TELEGRAPH COMPANY FOR AN ORDER OF THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA GRANTING IT A CERTIFICATE THAT PUBLIC CONVENIENCE AND NECESSITY REQUIRE THE EXERCISE BY IT OF THE RIGHTS AND PRIVILEGES CONFERRED UPON IT BY THE COMMON COUNCIL OF THE CITY OF MARYSVILLE, BY ORDINANCE No. 182, ON THE FOURTH DAY OF JUNE, 1917.

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Application No. 3253.

*Decided October 20, 1917.*

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BY THE COMMISSION.

**ORDER.**

The Pacific Telephone and Telegraph Company having applied to the Railroad Commission for a certificate declaring that public convenience and necessity require the exercise by it of the rights and privileges conferred upon it by the city of Marysville in Ordinance No. 182, which ordinance grants to said company, its successors and assigns, the right to place, erect and maintain poles, wires, and other appliances and conductors and to lay underground conduits for wires for the transmission of electricity for telephone and telegraph purposes in, upon and under the streets, alleys, avenues, thoroughfares and public highways in the city of Marysville, and to exercise the privilege of operating telephone and telegraph instruments and of doing a telephone and telegraph business within said city. And it appearing to the commission that this is not a case in which a public hearing is necessary.

*It is hereby declared* that public convenience and necessity require the exercise by The Pacific Telephone and Telegraph Company of the rights and privileges conferred upon it by the city of Marysville in Ordinance No. 182, provided that applicant shall never claim before the Railroad Commission or any other public body a value for said franchise for rate fixing or other purposes in excess of the actual cost thereof, which appears from the application amounted to \$256.00.

Dated at San Francisco, California, this twentieth day of October, 1917.



## DECISION No. 4777.

IN THE MATTER OF THE APPLICATION OF THE PACIFIC TELEPHONE AND TELEGRAPH COMPANY FOR AN ORDER OF THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA GRANTING IT A CERTIFICATE THAT PUBLIC CONVENIENCE AND NECESSITY REQUIRE THE EXERCISE BY IT OF THE RIGHTS AND PRIVILEGES CONFERRED UPON IT UNDER THE FRANCHISE GRANTED IT BY THE BOARD OF TRUSTEES OF THE CITY OF EL PASO DE ROBLES, BY ORDINANCE No. 164, ON THE FOURTH DAY OF JUNE, 1917.

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Application No. 3254.

*Decided October 20, 1917.*

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BY THE COMMISSION.

**ORDER.**

The Pacific Telephone and Telegraph Company having applied to the Railroad Commission for a certificate declaring that public convenience and necessity require the exercise by it of the rights and privileges conferred upon it by the city of El Paso de Robles, in Ordinance No. 164, which ordinance grants to said company, its successors and assigns, the right to place, erect and maintain poles, wires and other appliances and conductors and to lay underground conduits for wires for the transmission of electricity for telephone and telegraph purposes in, upon and under the streets, alleys, avenues, thoroughfares and public highways in the city of El Paso de Robles, and to exercise the privilege of operating telephone and telegraph instruments and of doing a telephone and telegraph business within said city. And it appearing to the commission that this is not a case in which a public hearing is necessary,

*It is hereby declared* that public convenience and necessity require the exercise by The Pacific Telephone and Telegraph Company of the rights and privileges conferred upon it by the city of El Paso de Robles in Ordinance No. 164, provided that applicant shall never claim before the Railroad Commission or any other public body a value for said franchise for rate fixing or other purposes in excess of the actual cost thereof, which appears from the application amounted to \$209.50.

Dated at San Francisco, California, this twentieth day of October, 1917.

## DECISION No. 4778.

IN THE MATTER OF THE APPLICATION OF THE PACIFIC TELEPHONE AND TELEGRAPH COMPANY FOR AN ORDER OF THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA GRANTING IT A CERTIFICATE THAT PUBLIC CONVENIENCE AND NECESSITY REQUIRE THE EXERCISE BY IT OF THE RIGHTS AND PRIVILEGES CONFERRED UPON IT UNDER THE FRANCHISE GRANTED IT BY THE CITY COUNCIL OF THE CITY OF STOCKTON, BY ORDINANCE No. 654, ON THE FIRST DAY OF JUNE, 1917.

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Application No. 3255.

*Decided October 20, 1917.*

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BY THE COMMISSION.

**ORDER.**

The Pacific Telephone and Telegraph Company having applied to the Railroad Commission for a certificate declaring that public convenience and necessity require the exercise by it of the rights and privileges conferred upon it by the city of Stockton in Ordinance No. 654, which ordinance grants to said company, its successors and assigns, the right to place, erect and maintain poles, wires and other appliances and conductors, and to lay underground conduits for wires for the transmission of electricity for telephone and telegraph purposes in, upon and under the streets, alleys, avenues, thoroughfares and public highways in the city of Stockton, and to exercise the privilege of operating telephone and telegraph instruments and of doing a telephone and telegraph business in said city. And it appearing to the commission that this is not a case in which a public hearing is necessary,

*It is hereby declared* that public convenience and necessity require the exercise by The Pacific Telephone and Telegraph Company of the rights and privileges conferred upon it by the city of Stockton in Ordinance No. 654, provided that applicant shall never claim before the Railroad Commission or any other public body a value for said franchise for rate fixing or other purposes in excess of the actual cost thereof, which appears from the application amounted to \$100.00.

Dated at San Francisco, California, this twentieth day of October, 1917.

## DECISION No. 4779.

IN THE MATTER OF THE APPLICATION OF THE STAR AUTO STAGE ASSOCIATION FOR CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY TO OPERATE STAGE OR TRUCK SERVICE BETWEEN TURLOCK AND NEWMAN.

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Application No. 3278.

*Decided October 20, 1917.*

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BY THE COMMISSION.

**ORDER.**

Star Auto Stage Association having applied to this commission for a certificate declaring that public convenience and necessity require the operation by it of an automobile passenger, freight and express transportation business between Turlock, Newman, and intermediate points, and it appearing to the commission that this is not a case in which a public hearing is necessary and that the application should be granted,

*It is hereby declared* that public convenience and necessity require the operation by the Star Auto Stage Association of an automobile passenger, freight and express business between Turlock, Newman, and intermediate points; provided, that the authority herein granted shall not be assignable; and provided, further, that this order shall not become effective until said Star Auto Stage Association shall have secured from the Railroad Commission a supplemental order herein reciting that said Star Auto Stage Association has filed herein certified copies of permits from the cities of Turlock and Newman, and the county of Stanislaus, as provided in section 3 of chapter 213, laws of 1917.

Dated at San Francisco, California, this twentieth day of October, 1917.

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DECISION No. 4780.

CITY OF SAN BRUNO

*vs.*

HENSLEY-GREEN COMPANY AS SAN BRUNO WATER COMPANY.

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Case No. 1119.

*Decided October 22, 1917.*

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In connection with a complaint bringing into question the adequacy of water service in the city of San Bruno, defendant is directed to file within thirty days plans for the improvement of its system so as to provide a pressure of not less than twenty pounds per square inch at all points on its distributing system, such

plans to also include a connection of not less than two inches with mains of Spring Valley Water Company and the metering of consumers either at their own option or at the option of the company.

*H. A. Mason*, city attorney, for Complainant.

*Phil J. Strubel*, for Defendant.

BY THE COMMISSION.

#### OPINION.

The issue raised by the pleadings is the adequacy of water service in a portion of San Bruno, San Mateo County. A public hearing in the matter was held by Examiner Westover at San Bruno. The water system in question is owned and operated by the Hensley-Green Company, a real estate firm, which subdivided the territory now served into building lots. The system was installed beginning about 1903. The water business is operated under the fictitious name of San Bruno Water Company. By stipulation the Hensley-Green Company was substituted as defendant.

Testimony showed that there has been inadequate pressure at a number of widely separated points on the lines; that the water is frequently sandy and some times discolored by rust; that many times water can not be obtained through domestic water fixtures, this condition frequently existing during the night or early morning hours.

The system supplies about 260 to 275 consumers distributed over a district one and three-quarters miles long and averaging about a quarter of a mile wide, extending northerly and southerly. The three wells and pump, with a capacity of about 6,000 gallons per hour, are located in the extreme southeast corner of this tract and the two storage tanks, with a total capacity of about 60,000 gallons, are located in its extreme southwest corner. The distribution system consists of about 66,300 feet of pipe ranging from one inch to four inches in diameter. About 25,500 feet of this is one-inch pipe, much of it installed at a great distance from the storage tanks. During the summer the pump is often operated at capacity as much as 20 hours a day, both tanks being filled twice a day. Apparently the wells are frequently pumped to capacity and water drawn away so rapidly that sediment from the wells has no opportunity to settle.

Only about a dozen meters are in use, water being served on a flat rate. The testimony indicates that many consumers are very careless and waste great quantities of water by leaving faucets open at night as the tanks are frequently empty by 5 o'clock in the morning after being left full late the previous night.

The remedy is obvious. Water should be conserved through the use of meters and the establishment of rates by quantity. The distribution of water should be facilitated by installing larger pipe in portions of the system.

The pumping plant was destroyed by fire on the night of August 12, 1917, and for a few days following that date inadequacy was, naturally, greatly accentuated. The day following the fire new equipment was ordered and later installed. As the condition following the fire was temporary, the opinion and order herein are based upon conditions existing prior to the fire. Immediately following the fire, water was supplied to the system by South San Francisco Water Company. That company desires to discontinue the increased service as soon as possible. Since the hearing, Spring Valley Water Company has indicated a willingness to supply water from its transmission main passing through San Bruno provided defendant agrees to certain terms.

The testimony indicated hesitancy on the part of defendant in making permanent improvements in its system for the reason that there has been a movement toward municipal ownership of water works in San Bruno.

San Bruno is served by three separate water companies. A representative of one of the other companies testified concerning the general conditions surrounding the water situation in San Bruno, and advocated a consolidation of the three systems. Both parties to this action have invited the commission to offer any suggestions which it feels will tend to aid in the final solution of the entire water problem of the city. The commission is not sufficiently informed concerning the other systems and the needs of the city at large to offer suggestions of value further than to say that we naturally favor any action which will result in more economical operation. This would probably follow a consolidation of the several systems.

The Spring Valley Water Company has offered service on terms which, if satisfactory to defendant, we suggest be accepted and that application be made for service connection.

#### ORDER.

A public hearing of the above case having been held, evidence having been taken and the matter having been submitted and being now ready for decision,

*It is hereby ordered* that the Hensley-Green Company file, within thirty (30) days from the date of this order, plans for the improvement of its system to provide for a pressure of not less than twenty pounds per square inch at all points on the distribution system where there are consumers, the plans filed to include connection not less than two inches in diameter with the pipe mains of the Spring Valley Water Company, and the installation of meters at the option of the consumers or the utility but at the expense of the Hensley-Green Company or San Bruno Water Company.

*It is further ordered* that within thirty days of the date of the approval of the plans filed, the Hensley-Green Company commence construction and exercise due diligence in its completion.

Dated at San Francisco, California, this twenty-second day of October, 1917.

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DECISION No. 4781.  
WESTERN AUTO STAGE COMPANY  
*vs.*  
MOTOR TRANSIT COMPANY.

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Case No. 1136.

*Decided October 22, 1917.*

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BY THE COMMISSION.

**ORDER OF DISMISSAL.**

It appearing to the commission that the complainant herein does not at this time desire to proceed further in the above-entitled matter,

*It is hereby ordered* that the complaint herein be and the same is hereby dismissed without prejudice.

Dated at San Francisco, California, this twenty-second day of October, 1917.

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DECISION No. 4782.  
IN THE MATTER OF THE APPLICATION OF SACRAMENTO GAS COMPANY FOR PERMISSION TO INVEST TEN THOUSAND DOLLARS OF ITS UNEXPENDED FUNDS DERIVED FROM THE SALE OF ITS FIRST MORTGAGE BONDS IN UNITED STATES GOVERNMENT FOUR PER CENT LIBERTY LOAN BONDS.

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Application No. 2990.

*Decided October 22, 1917.*

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BY THE COMMISSION.

**FIRST SUPPLEMENTAL ORDER.**

Whereas Sacramento Gas Company has applied to the Railroad Commission for permission to invest \$10,000.00 in United States Government 4 per cent Liberty Loan Bonds; and

Whereas said \$10,000.00 which petitioner desires to so invest is a portion of the unexpended balance amounting to \$15,076.04, being moneys received from the sale of petitioner's first mortgage bonds and now on deposit with the Anglo California Trust Company, trustee; and

Whereas it appears that petitioner will not require more than \$5,076.04 for additions and betterments during the next two years; and

Whereas it further appears that the contemplated investment of surplus funds by petitioner is entirely proper,

*It is hereby ordered* that Sacramento Gas Company be and the same is hereby authorized to invest in United States Government 4 per cent Liberty Loan Bonds the sum of \$10,000.00, as set forth in the application herein, said bonds to be deposited with the Anglo California Trust Company, trustee, and the interest thereon to be added to the principal of the fund.

Dated at San Francisco, California, this twenty-second day of October, 1917.

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DECISION No. 4783.

IN THE MATTER OF THE APPLICATION OF THE SAN JOAQUIN LIGHT AND POWER CORPORATION FOR A CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY.

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Application No. 3189.

*Decided October 22, 1917.*

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Applicant granted a certificate permitting the construction and operation of an electrical distributing system in all portions of Mariposa County not at the present time served by another electric utility.

BY THE COMMISSION.

**ORDER.**

Whereas San Joaquin Light and Power Corporation has applied to this commission for a certificate that present and future public convenience and necessity require the exercise by it of rights and privileges heretofore granted it by the county of Mariposa for the construction, maintenance and operation of electric transmission and distribution facilities in the entire county of Mariposa; and

Whereas it appears that applicant, on September 5, 1917, purchased the electric plant and distribution system of Merced Stone Company, located in Mariposa County; and

Whereas it appears that the inhabitants of Mariposa County are not now served with electricity except for the service in the towns of Bagby, Mount Bullion and Mariposa, rendered by the Mariposa Commercial and Mining Company, and a certain limited section in the northwestern part of the county served by Pacific Gas and Electric Company; and

Whereas it appears that San Joaquin Light and Power Corporation should be granted the right to serve in that portion of Mariposa County not now served by other utilities of like character; and good cause appearing

The Railroad Commission of the State of California hereby declares that present and future public convenience and necessity require and will require the exercise by San Joaquin Light and Power Corporation of the rights and privileges granted it by Ordinance No. 91 of the board of supervisors of the county of Mariposa, dated July 2, 1917, as to that portion of said county not now served by any other utility of like character. Provided, San Joaquin Light and Power Corporation shall file with this commission a stipulation duly authorized by its board of directors, declaring that San Joaquin Light and Power Corporation, its successors or assigns will never claim before the Railroad Commission or any other public body a value for said rights and privileges in excess of the actual cost to San Joaquin Light and Power Corporation of acquiring said rights and privileges under Ordinance No. 91 of the county of Mariposa, said cost to be set forth in said stipulation, and shall have received from the Railroad Commission a supplemental order herein declaring that San Joaquin Light and Power Corporation has filed such stipulation, satisfactory in form, with the Railroad Commission.

Dated at San Francisco, California, this twenty-second day of October, 1917.

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DECISION No. 4784.

IN THE MATTER OF THE APPLICATION OF PACIFIC GAS AND ELECTRIC COMPANY FOR AN ORDER OF THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA AUTHORIZING AND APPROVING A PROPOSED AGREEMENT TO BE ENTERED INTO BY AND BETWEEN PACIFIC GAS AND ELECTRIC COMPANY AND W. A. ROBERTSON AND LEO G. THEURIET.

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Application No. 3245.

*Decided October 22, 1917.*

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BY THE COMMISSION.

**ORDER.**

Whereas Pacific Gas and Electric Company has applied to this commission for authorization and approval of a certain proposed agreement between it and Messrs. W. A. Robertson and Leo G. Theuriet for the service of power to the residence of Mr. Theuriet located at Mill Valley, Marin County, California; and

Whereas it appears that the parties referred to above have signified their willingness to enter into said agreement, and said agreement appearing reasonable,

*It is hereby ordered* that Pacific Gas and Electric Company may enter into a certain contract for the furnishing of electric energy to



the residence of Mr. Leo G. Theuriet in Mill Valley, Marin County, California, in form and substance substantially as set forth in the instrument filed and attached to the application in the above-entitled matter.

The authority herein granted is granted upon the condition that applicant shall file with this commission, within thirty days after the date of this order, two copies of said contract.

Dated at San Francisco, California, this twenty-second day of October, 1917.

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DECISION No. 4785.

IN THE MATTER OF THE APPLICATION OF PUENTE CITY WATER COMPANY FOR AN ORDER AUTHORIZING AN INCREASE IN RATES.

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Application No. 2839.

*Decided October 23, 1917.*

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BY THE COMMISSION.

**ORDER DENYING REHEARING AND AMENDING ORDER.**

Puente City Water Company having applied for rehearing in above proceeding, and the commission having again carefully considered the facts, and it appearing that there are not sufficient grounds for granting a rehearing,

*It is hereby ordered* that application for rehearing be and it is hereby denied.

To correct a clerical error, the provision relating to meters in the schedule of rates contained in Decision No. 4520 of August 7, 1917, is hereby amended to read as follows:

Meters to be installed at the option of the company or any patron, but at the expense of the company.

In all other particulars said order shall remain in full force and effect.

Dated at San Francisco, California, this twenty-third day of October, 1917.

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DECISION No. 4786.

IN THE MATTER OF THE INVESTIGATION OF THE RAILROAD COMMISSION UPON ITS OWN INITIATIVE INTO THE FINANCIAL CONDITION OF THE UNITED RAILROADS OF SAN FRANCISCO.

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Case No. 610.

*Decided October 23, 1917.*

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Respondent having heretofore been directed to set up a certain amount annually as a depreciation fund which amount was to be expended only for betterments and

improvements to its system, it is now authorized to use the sum of \$310,807.00 from this fund for the purpose of reimbursing its treasury covering capital expenditures made.

BY THE COMMISSION.

**THIRD SUPPLEMENTAL ORDER.**

Whereas on October 4, 1917, United Railroads of San Francisco filed with the Railroad Commission a statement showing that it has expended for additions and betterments from July 1, 1915, to August 31, 1917, the sum of \$583,662.35; and

Whereas the Railroad Commission by Decision No. 2710, dated August 24, 1915, directed United Railroads of San Francisco to establish a depreciation account amounting to \$550,000.00 per annum until June 30, 1918, or until a further order of the commission, said decision further providing that of the money so accumulated \$25,000.00 per month or \$300,000.00 annually should be used and expended only for the construction of additional facilities or extensions and for the fulfilling of franchise obligations or for the improvement of service or for such other services properly chargeable to a depreciation account as may be authorized by the commission; and

Whereas United Railroads of San Francisco now requests authority to use \$583,662.35, being a part of the amount deposited by it as a depreciation fund to reimburse its treasury for the aforesaid capital expenditures; and

Whereas the engineering department of the Railroad Commission has not had sufficient time to check all of the reported expenditures, but it appears that at least \$450,000.00 of said expenditures represents proper capital charges; and

Whereas the Railroad Commission by Decision No. 2849, dated October 29, 1915, authorized the United Railroads of San Francisco to charge against the depreciation fund to be established under the terms of Decision No. 2710, its expenditures for additions and betterments for the period from July 1, 1915, to December 31, 1915, said expenditures being estimated at \$139,193.00; and

Whereas it appears to the Railroad Commission that the \$139,193.00 should be deducted from the aforesaid \$450,000.00, leaving \$310,807.00 of the expenditures properly chargeable to capital account to be financed through the depreciation fund and that applicant's request should at this time be granted to the extent herein indicated,

*It is hereby ordered* that United Railroads of San Francisco be and it is hereby authorized to use \$310,807.00 of the moneys deposited in the depreciation fund, directed to be set up by the Railroad Commission by its Decision No. 2710, dated August 24, 1915, to reimburse its treasury in part for expenditures for additions and betterments from

July 1, 1915, to August 31, 1917, as set forth in a statement filed with the Railroad Commission on October 4, 1917, said \$310,807.00 being in addition to the \$139,193.00 authorized to be expended by Decision No. 2849, dated October 29, 1915.

Dated at San Francisco, California, this twenty-third day of October, 1917.

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DECISION No. 4787.

IN THE MATTER OF THE APPLICATION OF HANFORD GAS AND  
POWER COMPANY FOR AN ORDER AUTHORIZING THE ISSUE AND  
SALE OF BONDS.

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Application No. 2639.

*Decided October 23, 1917.*

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BY THE COMMISSION.

**FOURTH SUPPLEMENTAL ORDER.**

Whereas applicant in the above-entitled matter reports that it has on deposit in bank \$15,000.00 obtained from the sale of bonds authorized to be issued by Decision No. 3967, dated December 29, 1916, as amended; and

Whereas applicant now reports that its contemplated extensions for at least one year will not call for an expenditure in excess of \$10,000.00; and

Whereas applicant desires authority to invest \$5,000.00 of the proceeds from the sale of its bonds in United States Government 4 per cent Liberty Loan Bonds;

And it appearing to the commission that this request should be granted,

*It is hereby ordered* that Hanford Gas and Power Company be and it is hereby authorized to invest in United States Government 4 per cent Liberty Loan Bonds the sum of \$5,000.00 obtained from the sale of bonds authorized to be issued by Decision No. 3967, dated December 29, 1916, as amended, said bonds and the interest payments thereon to be deposited with the trustee under the mortgage securing the payment of applicant's first mortgage bonds.

Dated at San Francisco, California, this twenty-third day of October, 1917.

Decisions Nos. 4788, 4789 and 4790, grade crossings, not printed.

See end of volume.

DECISION No. 4791.

J. O. MCINTIRE ET AL.

vs.

THE PACIFIC TELEPHONE AND TELEGRAPH COMPANY.

Case No. 1074.

*Decided October 23, 1917.*

GORDON, *Commissioner.*

**FIRST SUPPLEMENTAL ORDER.**

Whereas the Railroad Commission on the twenty-first day of August, 1917, issued its Decision No. 4563 in the above-entitled proceeding, providing, among other things, as follows:

"(2) That defendant herein shall, within not less than fifteen days after there shall have been connected and receiving service through its Laton exchange not less than eighty subscribers' telephone stations, exclusive of extension telephones, establish and place in effect continuous twenty-four hour service during each day, Sundays and holidays not excepted, and shall employ a sufficient number of competent operators to maintain such continuous service.

"(3) That within ten days immediately following the establishment of service in accordance with the provisions of paragraph (2) of the order herein, the defendant herein shall file its written statement, satisfactory to the Railroad Commission, declaring that the service herein provided for has been established, whereupon the commission will issue its supplemental order or orders dismissing this complaint as to the remaining complainants; provided, that in the event of the failure by defendant, after sixty days from the date of this order, except for good and sufficient cause shown, to connect at its Laton exchange the minimum number of subscribers' telephone stations hereinabove provided for, the commission will issue such further order as to it may appear to be proper."

And whereas the defendant herein, The Pacific Telephone and Telegraph Company, has filed its written statement, satisfactory to the commission, in compliance with the provisions hereinabove referred to,

*It is hereby ordered* by the Railroad Commission of the state of California that the complaint herein be and it is hereby dismissed.

Dated at San Francisco, California, this twenty-third day of October, 1917.

Decisions Nos. 4792 and 4793, grade crossings, not printed. See end of volume.

DECISION No. 4794.

IN THE MATTER OF THE APPLICATION OF SAN JOAQUIN LIGHT AND  
POWER CORPORATION FOR AN ORDER AUTHORIZING THE ISSUE  
AND SALE OF BONDS.

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Application No. 3140.

*Decided October 26, 1917.*

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BY THE COMMISSION.

**SECOND SUPPLEMENTAL ORDER.**

Whereas Condition No. 3 of the order in Decision No. 4602, dated August 30, 1917, authorizing San Joaquin Light and Power Corporation to issue \$745,000.00 of bonds reads:

“No part of the proceeds of the bonds hereby authorized to be issued shall be expended by applicant until this commission has made its supplemental order specifying the purposes for which such proceeds shall be expended.”

And

Whereas San Joaquin Light and Power Corporation reports that it has expended for capital purposes subsequent to December 31, 1916, the sum of \$1,067,613.77; and

Whereas applicant has heretofore been authorized to use the proceeds of \$410,000.00 of its Series “C” 6 per cent bonds to reimburse its treasury in part for capital expenditures from December 31, 1916, to June 30, 1917, said expenditures being reported at \$973,860.58; and

Whereas applicant now requests authority to use the proceeds of \$93,000.00 of Series “C” 6 per cent bonds to reimburse its treasury in part for capital expenditures, its intention being to use the proceeds after the reimbursement of its treasury to pay current indebtedness; and good cause appearing,

*It is hereby ordered* that San Joaquin Light and Power Corporation be and it is hereby authorized to use the proceeds of \$93,000.00 of bonds authorized to be issued by the order in Decision No. 4602, dated August 30, 1917, to reimburse its treasury in part for capital expenditures subsequent to December 31, 1916, provided that the proceeds of said \$93,000.00 of bonds after such reimbursement of the treasury, be used to pay current indebtedness.

*It is hereby further ordered* that the order in Decision No. 4602, dated August 30, 1917, as amended, shall remain in full force and effect except as modified by this second supplemental order.

Dated at San Francisco, California, this twenty-sixth day of October, 1917.

## DECISION No. 4795.

IN THE MATTER OF THE APPLICATION OF SUGAR PINE RAILWAY COMPANY FOR AN ORDER AUTHORIZING THE APPROVAL OF A TRACKAGE AGREEMENT WITH THE STANDARD LUMBER COMPANY.

Application No. 3288.

*Decided October 26, 1917.*

BY THE COMMISSION.

## ORDER.

Applicant in this proceeding having made written request for the dismissal of the above-entitled application,

*It is hereby ordered* that the application be and the same hereby is dismissed.

Dated at San Francisco, California, this twenty-sixth day of October, 1917.

## DECISION No. 4796.

IN THE MATTER OF THE APPLICATION OF SAN JOSE WATER WORKS FOR PERMISSION TO SELL STOCK AND PAY OUTSTANDING NOTES.

Application No. 3266.

*Decided October 26, 1917.*

Applicant authorized to issue \$135,000.00 par value of its common capital stock to be sold at not less than par, \$125,000.00 par value or such amount thereof as may be necessary to refund outstanding notes and \$20,000.00 of the proceeds to reimburse treasury covering capital expenditures made.

*Leib & Leib*, for Applicant.

EDGERTON, *Commissioner*.

## OPINION.

In this application San Jose Water Works asks authority to issue at not less than par \$135,000.00 par value of its capital stock. The proceeds from \$125,000.00 of stock applicant desires to use to pay short term notes set forth in the order herein. Stock in the amount of \$20,000.00 applicant desires to issue to reimburse its treasury for capital expenditures.

Applicant reports that since June 1, 1916, it has expended for capital purposes the sum of \$195,554.42. These expenditures are segregated by applicant as follows:

Rights of way .....	\$789 10
Water rights .....	2,271 70
Real estate .....	18,070 70
Pumping capital .....	32,464 13
Distribution capital .....	118,971 81
General capital .....	22,986 93
<b>Total</b> .....	<b>\$195,554 42</b>

The moneys necessary to make these expenditures applicant reports have been obtained from the following sources:

Issue of notes .....	\$115,000 00
Investment of depreciation reserve .....	35,317 84
From salvage of property retired .....	8,501 64
From other sources .....	35,734 94
Total .....	\$194,554 42

The \$35,734.94 is said by applicant to represent surplus earnings expended for capital purposes. On September 30, 1917, applicant reported an accumulated surplus amounting to \$41,864.14. It is because of the expenditure of a part of this surplus for capital purposes that applicant desires to issue \$20,000.00 par value of its stock to reimburse its treasury.

For years San Jose Water Works, and its predecessor, San Jose Water Company, have been paying a 6 per cent dividend on the outstanding capital stock.

While applicant in this application requests authority to issue its stock at not less than par, it is of the opinion that it will encounter no difficulty in selling the stock at 105. Applicant is paying 6 per cent interest on the \$115,000.00 of notes which it desires to refund through the issue of stock. Should it be able to dispose of its stock at 105, it will effect a material saving in the interest being paid on moneys expended for capital purposes.

San Jose Water Works acquired the properties of the San Jose Water Company on June 1, 1916. The commission heretofore has authorized applicant to issue \$1,735,000.00 par value of stock (Vol. 10, Opinions and Orders of the Railroad Commission of California, page 56 and page 221). Of the stock so authorized, applicant was permitted to issue \$1,500,000.00 in exchange for the properties of the San Jose Water Company and use \$235,000.00 to refund notes. Of the stock authorized to be issued, applicant has actually issued \$1,726,100.00. Inasmuch as applicant was able to sell part of its stock at from 104 to 105, it found it necessary to issue but \$226,100.00 of the \$235,000.00 of stock authorized to be issued to refund notes.

I believe that this application should be granted and herewith submit the following form of order:

#### ORDER.

San Jose Water Works having applied to the Railroad Commission for authority to issue \$135,000.00 par value of common capital stock, and a hearing having been held and the Railroad Commission being of the opinion that the money, property or labor to be procured or paid for by such issue is reasonably required for the purpose or purposes specified in the order, and that such purpose or purposes are not in whole or in part reasonably chargeable to operating expenses or to income,

*It is hereby ordered* that San Jose Water Works be and it is hereby granted authority to issue \$135,000.00 par value of its common capital stock.

The authority hereby granted is granted upon the following conditions and not otherwise:

1. The stock herein authorized to be issued shall be sold by applicant for cash at not less than the par value thereof.

2. Of the stock herein authorized to be issued, applicant may issue \$125,000.00, or such amount as may be necessary to refund or pay the following notes:

Payee	Date of issue	Term	Interest	Amount
Asay, Fannie E.....	Aug. 17, 1917	3 months	6%	\$1,000 00
Blauer, Clarence A.....	Aug. 6, 1917	3 months	6%	1,000 00
Bell, R. R.....	Aug. 8, 1917	3 months	6%	5,000 00
Bell, R. R.....	May 7, 1917	6 months	6%	5,000 00
Bruce, Morris M.....	May 4, 1917	6 months	6%	1,000 00
Bernal, Elizabeth Miller.....	June 8, 1917	6 months	6%	500 00
Bernal, Elizabeth Miller.....	July 25, 1917	4 months	6%	200 00
Campan, F. B.....	Sept. 20, 1917	3 months	6%	5,000 00
Cunningham, Sarah L.....	Mar. 9, 1917	6 months	5%	5,000 00
Edwards, Mary H.....	Aug. 7, 1917	3 months	6%	500 00
Green, Gladys S.....	Aug. 14, 1917	3 months	6%	500 00
Hellwig, Christian .....	July 10, 1917	5 months	6%	5,000 00
Hauch, E. F.....	Mar. 1, 1917	6 months	5%	1,000 00
Harmon, John B.....	June 12, 1917	6 months	6%	2,500 00
Kittridge, H. S.....	Aug. 6, 1917	3 months	6%	4,000 00
Koch, A. J.....	June 20, 1917	6 months	6%	10,000 00
Lewis Co., The .....	Sept. 6, 1917	3 months	6%	1,100 00
Lewis Co., The .....	Aug. 18, 1917	3 months	6%	1,500 00
Lewis Co., The .....	Aug. 17, 1917	3 months	6%	3,200 00
Lewis Co., The .....	Aug. 13, 1917	3 months	6%	1,000 00
Lewis Co., The .....	Aug. 1, 1917	3 months	6%	2,000 00
Lewis Co., The .....	July 31, 1917	4 months	6%	1,000 00
Lewis, J. W.....	Apr. 18, 1917	6 months	6%	1,000 00
Lathrop, C. G.....	May 23, 1917	6 months	6%	5,000 00
McKee, Geo. B.....	Aug. 15, 1917	3 months	6%	2,000 00
McKee, Geo. B.....	June 7, 1917	6 months	6%	3,000 00
McDougall, Anna E.....	July 30, 1917	4 months	6%	2,000 00
McCabe, Bessie C.....	July 28, 1917	4 months	6%	3,000 00
Prindiville, Jas. F.....	Aug. 15, 1917	3 months	6%	2,000 00
Riessam, F. W.....	July 5, 1917	6 months	6%	1,000 00
Singletary Bros. ....	Sept. 11, 1917	3 months	6%	1,000 00
San Jose Abstract Co.....	Aug. 21, 1917	3 months	6%	6,400 00
San Jose Abstract Co.....	Aug. 13, 1917	3 months	6%	600 00
San Jose Abstract Co.....	July 26, 1917	4 months	6%	3,000 00
Snow, F. T.....	May 25, 1917	6 months	6%	1,000 00
Thompson, Mary K.....	Apr. 19, 1917	6 months	6%	2,000 00
Widney, John .....	Aug. 17, 1917	3 months	6%	1,000 00
Williams, M. W.....	July 27, 1917	4 months	6%	10,000 00
Willey, Henrietta A.....	Aug. 16, 1917	3 months	6%	4,000 00
				\$105,000 00
Campan, C. G.....	Oct. 17, 1917	1 month	6%	2,000 00
Campan, F. B.....	Oct. 13, 1917	1 month	6%	2,400 00
Lewis Company .....	Oct. 13, 1917	1 month	6%	600 00
Costello, E. A.....	Oct. 18, 1917	1 month	6%	500 00
Lyndon, Marion M.....	Oct. 18, 1917	1 month	6%	500 00
Levy, J.....	Oct. 19, 1917	1 month	6%	4,000 00
<b>Total</b> .....				<b>\$115,000 00</b>



3. Applicant may use the proceeds of \$20,000.00 of stock herein authorized to be issued to reimburse its treasury for capital expenditures.

4. San Jose Water Works shall keep separate, true and accurate accounts showing the receipt and application in detail of the proceeds of the sale of the stock herein authorized to be issued; and on or before the twenty-fifth day of each month the company shall make verified reports to the commission stating the sale or sales of said stock during the preceding month, the terms and conditions of the sale, the moneys realized therefrom, and the use and application of such moneys, all in accordance with this commission's General Order No. 24, which order, in so far as applicable, is made a part of this order.

5. The authority herein granted to issue stock shall apply only to such stock as may be issued on or before July 1, 1918.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the state of California.

Dated at San Francisco, California, this twenty-sixth day of October, 1917.

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DECISION No. 4797.

IN THE MATTER OF THE APPLICATION OF SOUTHERN CALIFORNIA EDISON COMPANY FOR AN ORDER OF THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA AUTHORIZING IT TO MAKE, EXECUTE AND DELIVER A TRUST DEED COVERING ALL OF ITS PROPERTIES OF EVERY NATURE AND CHARACTER WHATSOEVER, TO SECURE A BONDED INDEBTEDNESS, AND TO ISSUE, SELL AND DELIVER TEN MILLION DOLLARS FACE VALUE OF BONDS UNDER SAID TRUST DEED.

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Application No. 3032.

*Decided October 29, 1917.*

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BY THE COMMISSION.

**FOURTH SUPPLEMENTAL ORDER.**

Southern California Edison Company having filed with the Railroad Commission a statement showing that it has expended for construction purposes during the month of September the sum of \$420,389.71, and it appearing that the sum so expended was for proper capital purposes and that applicant is entitled to expend \$315,292.28 of the proceeds from the \$3,000,000.00 of bonds referred to in subdivision "a" of Condition "3" of the order in Decision No. 4468, dated July 19, 1917, to finance in part said construction expenditures; now, therefore,

*It is hereby ordered* that Southern California Edison Company be and it is hereby authorized to use \$315,292.28 of the proceeds from the \$3,000,000.00 of the bonds referred to in subdivision "a" of Condition "3" of the order in Decision No. 4468, dated July 19, 1917, to pay in part for its construction expenditures during the month of September, 1917.

Dated at San Francisco, California, this twenty-ninth day of October, 1917.

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DECISION No. 4798.

COUNTY OF LOS ANGELES AND CITY OF LONG BEACH  
*vs.*  
 LOS ANGELES AND SALT LAKE RAILROAD COMPANY.

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Case No. 1113.

*Decided October 29, 1917.*

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Upon a showing that the temporary wooden trestle constructed and used by defendant company over Hill street, partly in the city of Long Beach and partly in the county of Los Angeles is dangerous to traffic, that clearances are inadequate and improvements necessary, following order made:

- (1) Railroad company required to construct a new bridge with minimum vertical clearance of not less than 14 feet and horizontal clearance over roadway of not less than 30 feet and two sidewalks of not less than six feet.
- (2) Expense to be distributed as follows: Cost of constructing bridge and raising track, by railroad company; excavating, retaining walls, etc., one-half by defendant and one-quarter each by complainants; property damage by complainants, depending in which district such damage occurs.

*Edward T. Bishop*, for Los Angeles County.

*George L. Hoodenpyl*, for city of Long Beach.

*Fred E. Pettit, Jr.*, for Los Angeles and Salt Lake Railroad Company.

GORDON, *Commissioner.*

**OPINION.**

In this complaint the city of Long Beach and Los Angeles County state that the Los Angeles and Salt Lake Railroad Company maintains a bridge, partly within the city of Long Beach and partly within unincorporated territory in Los Angeles County, over Hill street, which is an important thoroughfare used especially by children going to and from school; that the bridge is so constructed that but 24 feet 6 inches of Hill street is passable to the traveling public; that this portion of the highway is divided by a bent in the center of the roadway; and that the vertical clearance between the bridge and the highway is 9 feet 10½ inches. Complainants ask the commission to require

the railroad company to raise its roadbed in such a manner as to afford a vertical clearance of 14 feet and a horizontal clearance without obstruction of 40 feet. The railroad company denied the material allegations in the complaint and a public hearing was held upon the matter at Long Beach on September 17, 1917.

The track of the Los Angeles and Salt Lake Railroad Company crosses Hill street at a point near its intersection with California avenue on a pile trestle bridge, the clearances of which are substantially those set forth in the complaint. California avenue is very little traveled, but Hill street is, as alleged, an important highway in Long Beach and Los Angeles County and is heavily traveled by teams and school children. Because of the impaired vertical clearance, automobile trucks with high loads are forced to make a considerable detour to grade crossings, and because of the faulty horizontal clearances drivers of approaching automobiles have no opportunity to see each other. The situation is especially dangerous on account of the proximity of California avenue, as the embankment of the railroad company shuts off the view along that street, while the narrowness of the highway makes it necessary for school children and other pedestrians to use the same bridge opening that is used by automobiles. Although no accidents have occurred at this point the testimony shows that many have been narrowly averted.

The railroad company takes the position that the condition is not dangerous enough to warrant any considerable expense in improving the situation, but it has suggested three methods whereby it could be improved. The first of these, which it is willing to carry out, is to make openings in the embankments on both sides of the traveled highway for pedestrians and to whitewash and light the bent in the center. The cost of this would be small and it would not, in my judgment, afford a satisfactory solution. A permanent solution can be secured in two ways: first, by raising the grade of the track high enough to bring about the full vertical clearance, and replacing the existing timber structure with a concrete and steel bridge having openings for two sidewalks and a roadway, the cost of which has been estimated to be about \$32,000.00; and, second, by raising the track approximately one foot and depressing the street about five feet, which, with the present clearance, after making allowances for the depth of the bridge, would give the necessary clearance of 14 feet. This is estimated to cost about \$22,000.00, including an allowance to construct a drain about 2,700 feet in length.

If the first of these permanent methods of construction were carried out the grade of the track at the streets adjacent to Hill street would be raised distances varying from one foot to nine feet, making grade

crossings impossible and not permitting the grades to be separated without depressing those streets.

I am satisfied that the complaint of the city and of the county is entirely justified and that the bridge should be reconstructed so standard clearances, both horizontal and vertical, can be afforded; and I believe that the second permanent scheme, that is, depressing the highway and raising the track, is the one which should be followed, providing California avenue can be closed on both sides of Hill street where it intersects this street, as the intersection would be in a depression of about five feet, which might create a more dangerous condition than that which now exists. There appears to be no reason why the city of Long Beach, which has jurisdiction over California avenue, should not close it to enable the construction to be carried out, especially as by shortening the approaches it will considerably lessen the cost of construction and the property damage, and will cause comparatively little, if any, inconvenience to the property owners in the neighborhood.

The cost of the project on the last plan I have discussed has been estimated to be about \$22,000.00, as I have said, which includes a level approach at the junction of California avenue and Hill street, together with approaches on California avenue, property damage on California avenue, and grades of approach on Hill street of  $2\frac{1}{2}$  per cent. By eliminating the approaches on California avenue and using 3 per cent grades, which are not at all excessive for this highway, the expense of the project will be considerably lessened and the proportion to be borne by each party will not be burdensome. The bridge now used by the railroad company is a temporary wooden structure which in connection with the improvements herein referred to should be replaced with a concrete and steel bridge at its own expense. The expense of the approaches, including the retaining walls, excavation and drainage, but not including the paving, should be divided one-half to the railroad company and one-quarter each to Los Angeles County and the city of Long Beach. The property damages which occur should be taken care of by the political subdivision in whose territory they occur; that is, the county and the city should each pay for the property damaged in their respective jurisdictions. The cost of raising the tracks one foot should be borne by the railroad company.

I recommend the following form of order:

#### ORDER.

County of Los Angeles and City of Long Beach, Los Angeles County, having complained to the commission concerning the condition of the bridge of the Los Angeles and Salt Lake Railroad Company over Hill street, and having asked the commission to order the construction of a new bridge at this point, with adequate clearances; and a public

hearing having been held, and the commission having found that the clearances on the present structure are inadequate and a source of danger and that a new bridge should be built,

*It is hereby ordered* that the Los Angeles and Salt Lake Railroad Company be and the same hereby is ordered to construct a bridge over Hill street, with a minimum vertical clearance of not less than 14 feet, minimum horizontal clearance over the roadway of not less than 30 feet, and minimum horizontal clearance over two sidewalks of not less than six feet. The railroad company shall, six weeks after the city of Long Beach shall have closed California avenue at its intersection with Hill street, submit plans of this structure to the commission for its approval.

*It is hereby further ordered* that the expense of this construction shall be borne as follows:

(1) The expense of constructing the bridge under the track, including the substructure and the superstructure, shall be borne entirely by the Los Angeles and Salt Lake Railroad Company.

(2) The expense of raising the track one foot shall be borne by the Los Angeles and Salt Lake Railroad Company.

(3) The expense of constructing the approaches, including the excavation, concrete retaining walls and the drainage system, but not including the pavement, shall be borne one-half ( $\frac{1}{2}$ ) by Los Angeles and Salt Lake Railroad Company and one-quarter ( $\frac{1}{4}$ ) each by the county of Los Angeles and the city of Long Beach.

(4) The expense of such property damage as may accrue shall be borne by the city of Long Beach for the property within its boundaries, and the remainder shall be borne by Los Angeles County.

(5) The commission reserves the right to make such further orders relative to the construction, operation, maintenance, protection and operation of said bridge as to it may seem right and proper.

Dated at San Francisco, California, this twenty-ninth day of October, 1917.

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DECISION No. 4799.

IN THE MATTER OF THE APPLICATION OF J. S. CATTRON FOR CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY TO OPERATE AUTOMOBILE PASSENGER AND PACKAGE TRANSPORTATION BETWEEN ONTARIO AND CORONA VIA CHINO.

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Application No. 3284.

*Decided October 29, 1917.*

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BY THE COMMISSION.

**ORDER.**

J. S. Cattron having applied to this commission for a certificate declaring that public convenience and necessity require the operation by

him of an automobile passenger and package transportation business between Ontario and Corona, via Chino and intermediate points, and it appearing to the commission that this is not a case in which a public hearing is necessary and that the application should be granted,

It is hereby declared that public convenience and necessity require the operation by J. S. Catron of an automobile passenger and package transportation business between Ontario and Corona, via Chino and intermediate points; provided, that the authority herein granted shall not be assignable; and provided further, that this order shall not become effective until said J. S. Catron shall have secured from the Railroad Commission a supplemental order herein reciting that said J. S. Catron has filed herein certified copies of permits from the cities of Ontario, Chino, and Corona, and the counties of Riverside and San Bernardino, as provided in section 3 of chapter 213. laws of 1917.

Dated at San Francisco, California, this twenty-ninth day of October, 1917.

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DECISION No. 4800.

PACIFIC PORTLAND CEMENT COMPANY

*vs.*

TIDEWATER SOUTHERN RAILWAY COMPANY ET AL.

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Case No. 1129.

*Decided October 29, 1917.*

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Order issued directing defendant carriers to establish and file within twenty days a joint rate on cement, carloads, minimum weight 60,000 pounds, Cement to Modesto of \$1.70 per ton and Cement to Turlock of \$1.90 per ton, also to refund to complainant the difference between the rate collected and the rate herein established on all shipments moving since February 23, 1917.

Carriers which establish a joint rate from one producing plant while at the same time compelling another producer of the same commodity to ship under a combination of locals which effect a higher rate for a lesser mileage, are creating a discriminatory situation which should not be permitted to continue.

The sole fact that carriers are unable to agree upon joint rates for other commodities is not sufficient reason to warrant them in refusing to establish a joint rate affecting a large manufacturer entitled to having its tonnage moved at reasonable nondiscriminatory rates.

*Pillsbury, Madison & Sutro, by A. E. Roth, for Complainant.*

*Allan P. Matthew and R. W. McDonald for Tidewater Southern Railway Company et al.*

*George D. Squires, for Southern Pacific Company.*

LOVELAND, *Commissioner.*

**OPINION.**

Complainant is a corporation, and operates a plant at Cement, Cal., in the manufacture of cement and other building materials.

The substance of the complaint is this: that, effective February 23, 1917, in Item No. 72, Supplement No. 5 to Pacific Freight Tariff Bureau Joint Tariff No. 88-C, C. R. C. No. 137, there was established on cement in carload lots, from Cowell to Modesto, rate of \$1.70 and to Turlock \$1.90 per ton of 2,000 pounds, routed Bay Point and Clayton Railroad, The Atchison, Topeka and Santa Fe Railway and Tidewater Southern Railway; that at the time no through rates were published from Cement Station on the Cement, Tolinas and Tidewater Railway to the same destinations. Accordingly, complainant alleges discrimination and is seeking the establishment of through route and joint rates which will put its plant on an equality with the cement plant at Bay Point. Reparation is asked for on all shipments moved subsequent to February 23, 1917.

Effective April 27, 1917, in Item No. 73, Supplement No. 6 to Pacific Freight Tariff No. 88-C, the same rates were established from Cowell to Modesto and Turlock via Bay Point and Clayton Railway, Oakland, Antioch and Eastern Railway, Western Pacific Railroad and Tidewater Southern Railway.

The actual mileages via the different routes are as follows:

	Miles	Route	
Cowell to Modesto---	86	21	Bay Point and Clayton R.R. to Bay Point.
Cowell to Turlock---	103		Atchison, Topeka and Santa Fe to Stockton.
			Tidewater Southern Ry. to destination.
Cowell to Modesto---	139	22	Bay Point and Clayton R.R. to Government Ranch.
Cowell to Turlock---	156		Oakland, Antioch and Eastern Ry. to Sacramento.
			Western Pacific R.R. to Stockton.
			Tidewater Southern Ry. to destination.
Cement to Modesto---	120	-----	Cement, Tolinas and Tidewater R.R. to Tolinas.
Cement to Turlock---	137		Southern Pacific Company to Stockton.
			Tidewater Southern Ry. to destination.

The joint rates established April 27 via route No. 22 takes the Modesto tonnage 139 miles over the rails of four independent carriers, while the route proposed by applicant from Cement involves but three carriers and a haul of only 120 miles.

The testimony and exhibits of complainant clearly show that carriers have voluntarily created a discriminatory situation as between the different producing plants, for complainant is now required to pay the combination of local rates over Stockton, or \$2.15 to Modesto and \$2.35 to Turlock as against \$1.70 and \$1.90 paid by its competitor over a longer route from Cowell.

No testimony was presented by either the Southern Pacific Company or the Cement, Tolenas and Tidewater Railroad Company; both of these defendants, through their attorneys, announced at the hearing that they were willing to join in a tariff establishing from Cement the same rates as are now in effect from Cowell.

The third defendant, Tidewater Southern Railway Company, in its answer to the complaint, makes the following allegation in Paragraph IX:

“Answering paragraphs XII and XIII of the complaint, this defendant admits that the plaintiff has made application for the establishment of through rates from Cement to points on the line of this defendant and that this defendant has heretofore declined to concur in the publication of the rates for which application was made by the said plaintiff. In this behalf this defendant avers the fact to be that it has declined to concur in the publication of the said rates for which application was made by the said plaintiff as aforesaid because of the failure of the defendant to reach an agreement with defendant, Southern Pacific Company, respecting terms for the division of such rates between this defendant and the defendant, Southern Pacific Company, and because of the refusal of the defendant, Southern Pacific Company, to consent to the establishment of joint rates on commodities other than cement between points on or reached by the line of this defendant and points on or reached by the line of the Southern Pacific Company.”

This defendant produced but one witness, its assistant general manager, whose testimony was, in the main, a more detailed explanation of the statements set forth in the answer to the complaint. The policy of this defendant, in essence, seems to be one of endeavor to secure an agreement favorable to itself from the Southern Pacific Company covering a large territory and an entire schedule of rates before consenting to the establishment of joint rates on this specified commodity. The position is untenable, for by the publication of joint rates on cement from Cowell via the Santa Fe and later by the circuitous route over the rails of the Oakland, Antioch and Eastern Railway and the Western Pacific Railroad, there was created a discrimination as between shipping points.

In this case it appears that the same joint rates would have been published from Cement as from Cowell had not the Southern Pacific Company and the Tidewater Southern Railway disagreed with reference to other traffic matters entirely foreign to this particular rate.

A manufacturer, with tonnage, has the right to have it moved at reasonable, nondiscriminatory rates and this petitioner is not concerned with the means by which the desired results are obtained. Certainly its activities should not be crippled while the carriers are considering other rate adjustments, which, while of great importance to them, are no concern of shippers.



The contention is also made that because the mileage from Cement is longer than from Cowell direct via The Atchison, Topeka and Santa Fe Railway through Stockton, the Tidewater Southern would not receive the same revenue on the basis of a mileage prorate. When it is considered, however, that the distance from Cement is nineteen miles shorter than from Cowell through Sacramento in connection with the Oakland, Antioch and Eastern and the Western Pacific, this contention is not impressive.

It is to be regretted carriers did not handle this situation with a more liberal spirit, for apparently there was no disagreement as to what the rates should be which could have been published in the first instance and the question of the division of the earnings and other involved traffic matters submitted to the commission under section 33 of the Public Utilities Act for adjustment. In my judgment, this proceeding and the attending annoyances and delays to the public could and should have been avoided.

Upon consideration of all the facts, I am of the opinion and find that the present rates on cement, carloads, from Cement to Modesto, of \$2.15 and to Turlock of \$2.35 per ton, made up of the combination of locals over Stockton, are discriminatory; that a through rate should be established from Cement via the Cement, Tolenas and Tidewater, Southern Pacific and Tidewater Southern to Modesto and Turlock and joint rates published from Cement of \$1.70 to Modesto and \$1.90 to Turlock, the same as are now in effect from Cowell. No testimony was presented and the commission is not at this time passing upon the reasonableness of the joint rates.

I find that the rates charged on the shipments in controversy were unduly discriminatory to the extent that they exceeded the rates contemporaneously applicable on cement in carloads from Cowell to same points of destination; that complainant has been damaged to the extent that the charges collected exceeded the charges that would have accrued had the same rates as applied from Cowell been in effect. The exact amount of reparation can not be determined on the record, and complainant should prepare a statement showing the details of shipments, which statement should be submitted to defendants for adjustment. Should the parties fail to agree upon amount of reparation the facts may be submitted to the commission for further consideration.

I would suggest that carriers also give thought to the publication of joint rates on cement from Napa Junction and Davenport to points on the Tidewater Southern.

#### **ORDER.**

The Pacific Portland Cement Company, a corporation, having applied to the commission for a through route and joint rates with the Cement, Tolenas and Tidewater Railroad, the Southern Pacific Company and the Tidewater Southern Railway Company on cement in carloads from

Cement to Modesto and Turlock and a hearing having been held and basing its findings upon the statement of facts in the opinion which precedes this order,

*It is hereby ordered* that the Cement, Tolenas and Tidewater Railroad, Southern Pacific Company and Tidewater Southern Railway Company publish and file with this commission on or before twenty days from the date hereof joint rates for the transportation of cement, in earloads, minimum weight 60,000 pounds, from Cement to Modesto of \$1.70 per ton and to Turlock of \$1.90 per ton, which rates are hereby found to be nondiscriminatory for such joint service.

*It is further ordered* that the said Cement, Tolenas and Tidewater Railroad, Southern Pacific Company and Tidewater Southern Railway Company agree upon division of said joint rates heretofore found to be nondiscriminatory, and in the event of failure to agree upon such division, said carriers shall appear before the commission and show cause why this commission should not proceed to the establishment of division as provided for by law.

*It is further ordered* that these defendants pay, by way of reparation, to the Pacific Portland Cement Company a sum equal to the difference between the amounts paid and what would have been paid for the shipments of cement forwarded from Cement to points on the Tidewater Southern Railway Company since February 23, 1917, and the rates of \$1.70 and \$1.90 herein found to be nondiscriminatory for such shipments. In case the parties to this proceeding fail, within sixty days, to agree upon the amount of reparation due under this order, said parties, or either of them may appear before the commission and submit proofs, whereupon the commission will determine the amount of reparation due and issue a supplemental order.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the state of California.

Dated at San Francisco, California, this twenty-ninth day of October, 1917.

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DECISION No. 4801.

IN THE MATTER OF THE APPLICATION OF SOUTHERN CALIFORNIA EDISON COMPANY FOR AN ORDER OF THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA AUTHORIZING IT TO ISSUE, SELL AND DELIVER FIFTY THOUSAND SHARES OF ITS COMMON CAPITAL STOCK OF THE PAR VALUE OF ONE HUNDRED DOLLARS EACH.

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Application No. 2743.

*Decided October 29, 1917.*

Applicant, heretofore authorized to issue a certain amount of its common capital stock, the proceeds of which were to be expended for specified capital purposes,

applies for and secures an amendment to such order permitting the use of \$3,885,018.84 of the proceeds of stock sales for the purpose of discharging notes and accounts.

BY THE COMMISSION.

**FIFTH SUPPLEMENTAL ORDER.**

In its fifth supplemental petition filed in the above-entitled matter, Southern California Edison Company asks the Railroad Commission to modify its former orders made in this proceeding so as to permit the company to use \$3,885,019.84 of the proceeds obtained from the sale of its common capital stock to pay part of the notes and accounts set forth herein below.

By Decision No. 4415, dated June 21, 1917, as amended by Decision No. 4570, dated August 21, 1917, the Railroad Commission authorized Southern California Edison Company to issue at not less than \$88.00 per share 32,000 shares of its common capital stock. Condition 1 of the order in Decision No. 4415 as amended reads as follows:

“The proceeds from the sale of said 32,000 shares of common stock shall be used by applicant to acquire in whole or in part \$5,000,000.00 face value of bonds issued by Pacific Light and Power Corporation under its mortgage or deed of trust, dated November 20, 1911; or to discharge in whole or in part, obligations of Pacific Light and Power Corporation in an amount not exceeding \$2,480,405.05, or to pay for the cost of extensions of and additions to plants, properties and equipment, provided that before expending any portions of the proceeds for extensions of and additions to plants, properties and equipment, applicant shall have filed with the commission a statement showing the estimated cost of such extensions of and additions to plants, properties and equipment.”

Reports on file with the commission show that the \$5,000,000.00 face value of bonds issued by Pacific Light and Power Corporation have been acquired by Southern California Edison Company through funds obtained from the issue of \$10,000,000.00 of its first and refunding bonds authorized to be issued by Decision No. 4468, dated July 19, 1917. Of the \$2,480,405.05 of notes, the Southern California Edison Company has paid \$500,000.00 through funds obtained from the issue of its common stock. The remaining \$1,980,405.05 of notes were paid through the issue of notes included in the list set forth herein below. In effect the company asks that the commission modify its order in Decision No. 4415 so as to permit the Edison company to apply the proceeds obtained from the sale of its common capital stock to the payment of \$1,980,405.05 of notes issued to pay in part the \$2,480,405.05 of notes authorized to be paid through the sale of common capital stock.

By Decision No. 4752, dated October 16, 1917, the Railroad Commission authorized Southern California Edison Company to issue at not

less than \$88.00 per share 25,000 shares of its common capital stock. The order in this decision provides that the proceeds from the sale of the stock shall be placed in a special fund and expended only after applicant shall have filed with the Railroad Commission a detailed statement showing the purposes for which it proposes to use said proceeds and shall have received a supplemental order from the Railroad Commission approving the same.

Applicant reports that it has expended for extensions of and additions to its plants, properties and equipment the sum of \$3,885,019.84, and that no stocks, bonds or other securities have been issued against this expenditure. It, therefore, asks that it be permitted to use \$3,885,019.84 of the proceeds from the sale of its common capital stock, authorized to be issued by the above-mentioned decisions, to pay notes herein below set forth.

We are satisfied from the showing made that the expenditures herein asked to be capitalized are proper capital expenditures and that this fifth supplemental petition should be granted; now, therefore,

*It is hereby ordered* that the order in Decision No. 4415, dated June 21, 1917, the order in Decision No. 4570, dated August 21, 1917, and the order in Decision No. 4752, dated October 16, 1917, be and the same are hereby amended so as to permit Southern California Edison Company to use \$3,885,018.84 of the proceeds obtained from the sale of stock authorized to be issued by said orders to pay all or a part of the following notes and accounts payable:

Dated	In favor of	Due	Amount
8/ 3/16	Security Trust and Savings Bank-----	8/ 4/16	\$35,000.00
4/ 9/17	Ourselves -----	10/ 9/17	400,000.00
4/16/17	Ourselves -----	10/16/17	500,000.00
5/15/17	Bankers Trust Company-----	5/ 1/18	1,500,000.00
6/ 1/17	H. E. Huntington-----	12/ 1/17	450,000.00
6/ 1/17	Ourselves -----	12/ 1/17	15,000.00
6/ 1/17	Ourselves -----	12/ 1/17	200,000.00
6/ 1/17	Ourselves -----	12/ 1/17	50,000.00
6/ 1/17	Ourselves -----	12/ 1/17	35,000.00
6/ 1/17	Ourselves -----	12/ 1/17	50,000.00
6/ 1/17	Ourselves -----	12/ 1/17	50,000.00
7/16/17	Ourselves -----	1/16/17	500,000.00
7/20/17	Ourselves -----	1/20/18	100,000.00
7/27/17	Security Trust and Savings Bank-----	10/ 3/17	75,000.00
7/27/17	Security National Bank-----	10/ 3/17	75,000.00
7/28/17	H. E. Huntington and J. B. Miller-----	10/ 3/17	75,000.00
8/ 1/17	Huntington Land and Improvement Co.-----	11/25/17	500,000.00
8/15/17	First National Bank, Fresno-----	8/16/17	25,000.00
8/15/17	Farmers National Bank, Fresno-----	8/16/17	25,000.00
8/15/17	Bank of Italy, Fresno-----	11/13/17	50,000.00
8/31/17	Bankers Trust Company-----	2/28/17	750,000.00
Total notes -----			\$5,460,000.00

## Open accounts—

H. E. Huntington-----	201,869.64
Huntington Land Company-----	39,596.84
Total accounts-----	\$241,466.48
Total notes and accounts-----	\$5,701,466.48

In all other respects said orders shall remain in full force and effect.

Dated at San Francisco, California, this twenty-ninth day of October, 1917.

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DECISION No. 4802.

IN THE MATTER OF THE APPLICATION OF R. F. WILSON FOR CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY TO OPERATE STAGE OR TRUCK SERVICE BETWEEN BENICIA AND SUISUN.

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Application No. 3145.

*Decided October 29, 1917.*

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BY THE COMMISSION.

**ORDER OF DISMISSAL.**

Applicant in the proceeding entitled as above having made written request that the application be dismissed,

*It is hereby ordered* that the same be and it is hereby dismissed without prejudice.

Dated at San Francisco, California, this twenty-ninth day of October, 1917.

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Decision No. 4803, grade crossing; not printed. See end of volume.

DECISION No. 4804.

IN THE MATTER OF THE APPLICATION OF INGLEWOOD WATER COMPANY FOR AN ORDER AUTHORIZING THE ISSUE OF ITS TWO NOTES FOR TWENTY THOUSAND FORTY-ONE DOLLARS ELEVEN CENTS AND FORTY-SIX THOUSAND SEVEN HUNDRED SIXTY-TWO DOLLARS SIXTY-ONE CENTS, RESPECTIVELY.

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Application No. 3251.

*Decided October 31, 1917.*

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Applicant authorized to issue two three-year notes of an aggregate face value of \$57,515.51 for the purpose of refunding two promissory notes of a like face value. Applicant's request for permission to issue notes for the purpose of paying accrued interest on above obligations on the grounds that it has reinvested earnings in plant, deferred pending the submission of specific statements showing the amount of earnings invested for capital purposes.

*Willis I. Morrison and Karl E. Steinhauer, for Applicant.*

LOVELAND, *Commissioner*.

**OPINION.**

In this application, Inglewood Water Company asks authority to issue a 3-year 6 per cent note to Charles Lloyd for \$20,041.11 and a 3-year 6 per cent note to Centinela Land Company for \$46,762.61.

On December 31, 1912, Inglewood Water Company issued its note for \$58,764.64 to Charles Lloyd and another note for \$137,117.48 to Centinela Land Company. The holders of these notes waived their interest to January 1, 1916. Through the issue of bonds authorized by the commission, a part of the principal of the notes has been refunded. The unpaid principal of the note now held by Charles Lloyd amounts to \$17,254.66 and by the Centinela Land Company to \$40,260.85. The testimony shows that the proceeds of the notes issued on December 31, 1912, have been expended for capital purposes.

From January 1, 1916, to October 1, 1917, applicant reports that no interest has been paid on either of the notes. The accrued interest on the Charles Lloyd note is reported at \$2,786.45 and on the Centinela Land Company note at \$6,501.76, making a total of \$9,288.21. This amount applicant now desires to add to the principal and issue 3-year 6 per cent notes for the amounts above indicated.

Reports filed by applicant with the commission show:

Item	December 31, 1916	August 31, 1917
Cash on hand and in bank .....	\$7,768 79	\$9,172 71
Accounts receivable .....	10,709 59	11,422 04
Notes receivable .....	2,441 60	2,300 00
Total .....	\$20,919 98	\$22,894 75

The testimony indicates that more than \$10,000.00 of the notes and accounts receivable represent amounts due from applicant's stockholders. No evidence was submitted showing why the amounts due from the stockholders should not be at once collected. I suggest to applicant that it take immediate steps to collect the amounts due from its stockholders and use the moneys so collected to pay its corporate obligations. If this is done, applicant will be in a position to pay its accrued interest without drawing to any material extent upon its cash balance as reported on August 31, 1917.

It is urged by applicant that it should be permitted to fund the accrued interest on the notes for the reason that it has expended for capital purposes earnings which might have been used to pay interest on the notes. No testimony was offered on this point, except a general statement and a reference to applicant's annual report. The interest on the notes, as already stated, has been accrued from January 1, 1916, to October 1, 1917. The annual report referred to covers the year ending December 31, 1916. No statement was submitted showing the expenditures for capital purposes from January 1, 1917, to October 31, 1917.

The earning statement submitted by applicant covers the eight months ending August 31, 1917. Obviously, if applicant intends to justify the funding of the interest because of earnings invested in the plant, it should furnish the commission with a statement showing capital expenditures as well as the earnings during the period for which interest has been accrued. There is no desire on my part to recommend any action which might be interpreted as denying the issue of securities by applicant to capitalize proper capital expenditures, but I do feel that it is incumbent upon applicant to make a specific showing as to how much of its earnings have been expended for capital purposes from January 1, 1916, to October 1, 1917. When this is done and if applicant should be unable to pay the accrued interest from moneys collected from stockholders or from earnings, a further consideration will be given to that portion of this application relating to the funding of accrued interest.

I herewith submit the following form of order:

#### ORDER.

Inglewood Water Company having applied to the Railroad Commission for authority to issue a 3-year 6 per cent note to Charles Lloyd for the principal sum of \$20,041.11 and a 3-year 6 per cent note to the Centinela Land Company for the principal sum of \$46,762.61, and a hearing having been held and it appearing to the Railroad Commission that the money, property or labor to be procured or paid for by such issue is reasonably required for the purpose specified in the order and that such purpose is not in whole or in part reasonably chargeable to operating expenses or to income,

*It is hereby ordered* that Inglewood Water Company be and it is hereby granted authority to issue a 3-year 6 per cent note to Charles Lloyd for the principal sum of \$17,254.66 and a 3-year 6 per cent note to the Centinela Land Company for the principal sum of \$40,260.85.

The authority herein granted is granted upon the following conditions and not otherwise:

1. The notes herein authorized to be issued shall be issued at not less than the face value thereof.

2. The proceeds of the note herein authorized to be issued to Charles Lloyd shall be used to pay or refund the balance due on the principal of the note dated December 31, 1912, said balance being reported at \$17,254.66.

3. The proceeds of the note herein authorized to be issued to the Centinela Land Company shall be used to pay or refund the balance due on the principal of the note dated December 31, 1912, said balance being reported at \$40,260.85.

4. Inglewood Water Company shall keep separate, true and accurate accounts showing the receipt and application in detail of the proceeds of the notes herein authorized to be issued; and on or before the twenty-fifth day of each month the company shall make verified reports to the

commission stating the disposition of the notes herein authorized to be issued and of the proceeds of each thereof, and in this and all other respects applicant shall comply fully with this commission's General Order No. 24, which order in so far as applicable is made a part of this order.

5. The authority herein granted to issue notes is conditioned upon the payment by applicant of the fee prescribed by the Public Utilities Act.

6. The authority herein granted to issue notes shall apply only to such notes as may be issued on or before March 1, 1918.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the state of California.

Dated at San Francisco, California, this thirty-first day of October, 1917.

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DECISION No. 4805.

IN THE MATTER OF THE APPLICATION OF NEEDLES GAS AND ELECTRIC COMPANY FOR AUTHORITY TO EXCHANGE A PIECE OF LAND FOR ANOTHER OF PRACTICALLY THE SAME ACREAGE WITH THE ATCHISON, TOPEKA AND SANTA FE RAILWAY COMPANY.

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Application No. 2854.

*Decided October 31, 1917.*

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The respective pieces of property proposed to be transferred being of more value to the acquiring utility than to the present owners, application granted.

*E. H. Rose and R. S. Masson*, for Needles Gas and Electric Company.  
*M. W. Reed*, for The Atchison, Topeka and Santa Fe Railway Company.

BY THE COMMISSION.

**OPINION.**

In this application Needles Gas and Electric Company requests authority to transfer to The Atchison, Topeka and Santa Fe Railway Company a certain parcel of land hereinafter described and in payment therefor The Atchison, Topeka and Santa Fe Railway Company proposes to transfer to Needles Gas and Electric Company a certain other parcel of land hereinafter described.

A hearing was held in the above-entitled matter before Examiner Encell at Los Angeles on June 8, 1917. Decision in this matter has been held up at request of applicant pending certain negotiations between the parties.

It is to be noted that any authority herein granted is permissive and not mandatory.



The parcel of land which the Needles Gas and Electric Company proposes to transfer is located some distance from its gas and electric plant and will be of more use to The Atchison, Topeka and Santa Fe Railway Company than to the Needles company. The parcel of land to be transferred by The Atchison, Topeka and Santa Fe Railway Company to the Needles Gas and Electric Company in consideration of the transfer is a strip of land adjoining the present gas and electric plant of the Needles company and will be of more benefit than that now owned by it.

It appears that the property has practically the same value and that it will be to the benefit of both utilities that the transfer be made.

#### ORDER.

Needles Gas and Electric Company having applied to this commission for authority to transfer a certain parcel of land to The Atchison, Topeka and Santa Fe Railway Company and in consideration thereof to obtain from The Atchison, Topeka and Santa Fe Railway Company a certain parcel of land in the city of Needles, and a hearing having been held and the matter being ready for decision,

*It is hereby ordered* that Needles Gas and Electric Company be and the same is hereby authorized to transfer to The Atchison, Topeka and Santa Fe Railway Company that parcel of land in the city of Needles described as follows:

“Beginning at a stone on the east boundary line of the southwest quarter of section 29, township 9 north, range 23 east, San Bernardino meridian, at a distance of 1,343.4 feet north of the quarter section corner on the south boundary line of said section, this stone marking the boundary line of The California, Arizona and Santa Fe Railway Company's station grounds; thence north 88.5 feet more or less to a point 50 feet south of the southeast corner of block 30, according to McWilliams survey of Needles as per plat recorded in Book 13 of Maps, page 18 of the Records of San Bernardino County; thence west to an intersection with the northeastern boundary line of said station grounds, thence southeasterly to the place of beginning at said stone.”

The Atchison, Topeka and Santa Fe Railway Company is hereby authorized to transfer to the Needles Gas and Electric Company that certain parcel of land in the town of Needles described as follows:

“All that portion of the southwest quarter of the southeast quarter of section 29, township 9 north, range 23 east, S. B. M., in the city of Needles, county of San Bernardino, state of California, described as follows: Commencing in the northeastern boundary line of the station grounds of The California, Arizona and Santa Fe Railway Company, 575.51 feet southeasterly along the said boundary line from a point 68.5 feet east of the northwest corner of said southwest quarter of the southeast quarter, said point of commencement being the southeast corner of land of said Needles Gas and Electric Company; thence north, along the east line of said land of the Needles Gas and Electric Company, 271.19 feet; thence east 32.9

feet; thence south, parallel to said east boundary line of land of Needles Gas and Electric Company, 329.52 feet, more or less, to said northeastern boundary line of station grounds; thence northwesterly along said northeastern boundary line of station grounds, 67.26 feet, more or less, to place of commencement, containing an area of 0.227 of an acre, more or less."

The order herein is upon the following conditions:

(1) The authority herein granted shall apply only to such transfer as shall have been made within 60 days from the date hereof.

(2) Within 10 days after said transfer is executed the Needles Gas and Electric Company shall file with the commission a report stating the fact and date of delivery of said transfer, together with copy of deeds of transfer of said real property.

Dated at San Francisco, California, this thirty-first day of October, 1917.

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DECISION No. 4806.

IN THE MATTER OF THE APPLICATION OF SOUTHERN CALIFORNIA EDISON COMPANY TO PURCHASE CERTAIN PREFERRED AND COMMON CAPITAL STOCK OF VENTURA COUNTY POWER COMPANY AND TO ACQUIRE THE BUSINESS, FRANCHISES AND PROPERTY AS A WHOLE, AND THE APPLICATION OF VENTURA COUNTY POWER COMPANY TO SELL AND CONVEY ITS BUSINESS, FRANCHISES AND PROPERTY AS A WHOLE TO SOUTHERN CALIFORNIA EDISON COMPANY.

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Application No. 3152.

*Decided October 31, 1917.*

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Southern California Edison Company authorized to purchase 90.3 shares of preferred and 15.6 shares of common stock of the Ventura County Power Company for the sum of \$5,053.95 and the Ventura company authorized to transfer all its property and rights to the Edison company, provided the Edison company assume all outstanding debts and obligations at present resting against the properties proposed to be transferred.

*H. H. Trowbridge*, for Applicants.

BY THE COMMISSION.

**OPINION.**

This is an application of Southern California Edison Company, hereinafter called "Edison company," for authority to purchase 90.3 shares of preferred stock and 15.6 shares of common stock of Ventura County Power Company, hereinafter called "Ventura company," for \$5,053.95. Edison company also asks for authority to acquire the business, franchises and property as a whole of Ventura company. The latter company joins in the application.

A public hearing in this matter was held before Examiner Encell at Ventura on October 23, 1917.

Ventura County Power Company was incorporated August 22, 1906, for the purpose of acquiring and consolidating the properties of Ventura Water, Light and Power Company, Oxnard Light and Water Company and Santa Paula Electric Company. It has an authorized capital stock issue of \$2,500,000.00 divided into 10,000 shares of preferred and 15,000 shares of common stock of the par value of \$100.00 per share. Of this stock 3,507.8 shares of preferred and 7,060.6 shares of common stock are now outstanding. Pursuant to the authority granted by Decision No. 4332, dated May 22, 1917 (Application No. 2651), Southern California Edison Company has acquired 3,417½ shares of the outstanding preferred stock and 7,045 shares of the outstanding common stock of Ventura company. The stock which Edison company now desires to purchase represents the balance of the outstanding stock of Ventura company. Edison company reports that parties acting on its behalf have been obliged to pay \$5,053.95 for the Ventura company stock which it now desires to acquire.

In connection with Application No. 2651 Arthur R. Kelley, testified for the Edison company that the investment cost of the properties of Ventura company as of April 30, 1916, was the sum of \$1,263,000.00. At the hearing in the present application, witness for Edison company testified that the additions and betterments made between the date of the Kelley valuation and August 31, 1917, would increase this figure to \$1,338,523.61. In order to show the equity over all indebtedness applicants filed as Exhibit No. 1 a statement purporting to show investment cost of property and equity over debts as of August 31, 1917. This statement may be summarized as follows:

**Ventura County Power Company.**

*Investment Cost of Property and Equity Over Debts as of August 31, 1917.*

(From Applicants' Exhibit No. 1.)

Total fixed capital .....	\$1,338,523 61	
Securities owned .....	625 00	
Current assets .....	87,352 70	
Deferred charges .....	10,757 20	
		<hr/>
Total properties .....		\$1,437,258 51
Bonds .....	\$883,500 00	
Current liabilities .....	205,021 54	
		<hr/>
Total bonds and debt .....		1,088,521 54
		<hr/>
Excess of investment cost over debts .....		\$348,736 97

If allowed to acquire the properties of Ventura company, Edison company will assume all the indebtedness of Ventura company. This includes current liabilities, which as shown by the above statement

amounted on August 31, 1917, to \$205,021.54, and the following outstanding bonds:

Ventura Light and Power Company, 6 per cent bonds, dated July 9, 1901, and maturing May 1, 1921-----	\$175,500 00
Ventura County Power Company, 6 per cent bonds, dated November 1, 1906, and maturing November 1, 1936-----	708,000 00
Total -----	\$883,500 00

Applicants also presented at the hearing as Exhibit No. 2 a comparative earning statement for the twelve months ending August 31, 1916-17. This statement may be summarized as follows:

	1917	1916
Operating revenues -----	\$260,809 53	\$223,277 43
Operating expenses -----	168,444 72	147,207 57
	\$92,454 81	\$76,069 86
Less uncollectible bills-----	1,239 45	945 65
Net operating revenue-----	\$91,215 36	\$75,124 21
Nonoperating revenue -----	7,315 89	164 94
Total net income-----	\$98,531 25	\$75,289 15
Deductions (bond interest, etc.)-----	55,532 31	56,501 29
Balance for depreciation and surplus-----	\$42,998 94	\$18,787 86

It appears from the evidence presented at the hearing that the consolidation of the properties of Ventura company with those of Edison company will result in better and more efficient service to the public and a considerable saving in the costs of operation and the acquiring of new capital.

#### ORDER.

Southern California Edison Company having applied to the Railroad Commission for authority to purchase 90.3 shares of preferred and 15.6 shares of common stock of Ventura County Power Company for a total consideration of \$5,053.95, and for authority to acquire all of the business, franchises and property as a whole of Ventura County Power Company, and the latter company having joined in the application, and a public hearing having been held, and it appearing to this Commission that applicants' request is reasonable and should be granted,

*It is hereby ordered* that Southern California Edison Company be and it is hereby authorized to purchase 90.3 shares of preferred stock and 15.6 shares of common stock of Ventura County Power Company for \$5,053.95;

*It is hereby further ordered* that Ventura County Power Company be and it is hereby granted authority to transfer to Southern California Edison Company all of its business, franchises and property as a whole.

For a description of the property hereby authorized to be transferred reference is had to the detailed description thereof attached to the application herein, marked Exhibit "C" and filed in these proceedings.

The authority herein granted is granted upon the following conditions and not otherwise:

1. Southern California Edison Company shall assume the payment of all outstanding debts and obligations of Ventura County Power Company.

2. Southern California Edison Company shall report all transactions had under this order within thirty days from the date thereof.

3. The price at which Southern California Edison Company is authorized to purchase the stock of Ventura County Power Company shall not be binding upon this commission or any other public body as representing the value of the properties of Ventura County Power Company for rate making or other purposes.

4. This order shall not become effective until Southern California Edison Company shall have filed with the Railroad Commission a stipulation duly authorized by its board of directors declaring that Southern California Edison Company, its successors and assigns, will never claim before the Railroad Commission or any court or other public body a value for the franchises herein authorized to be acquired by said Southern California Edison Company in excess of the cost of such franchises to the original grantee or grantees, which cost shall be set forth in the stipulation and shall have received from the Railroad Commission a supplemental order declaring that such stipulation has been filed in form satisfactory to the Railroad Commission.

Dated at San Francisco, California, this thirty-first day of October, 1917.

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DECISION No. 4807.

IN THE MATTER OF THE APPLICATION OF FOWLER INDEPENDENT  
TELEPHONE COMPANY FOR EXTENSION OF TIME TO COMPLY  
WITH RULE TO STANDARDIZE LINES.

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Application No. 3260.

*Decided October 31, 1917.*

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Applicant granted an extension of time to and including February 22, 1918, in which to complete construction necessary under the provisions of chapters 499 and 600.

*J. S. Manley and J. H. Weinberg, for Fowler Independent Telephone Company.*

GORDON, *Commissioner*.

**OPINION.**

This is a petition for an order extending the time for compliance with the provisions of chapter 499, laws of 1911, as amended by chapter 600, laws of 1915, referring to the construction, reconstruction, maintenance and use of electric poles, wires, cables and appliances.

A public hearing in this proceeding was held in Fowler on October 22, 1917.

For a statement of the law governing principles guiding the Railroad Commission in its decision therein, reference is hereby made to the decision rendered in Application No. 2222, Los Angeles Gas and Electric Corporation et al.

Petitioner owns and operates a telephone system in the city of Fowler, Fresno County, and in unincorporated territory covering an irregular area extending three to seven miles from Fowler.

Mr. J. H. Weinberg, petitioner's secretary, testified that the present management had no knowledge of the number of violations of the statute which existed on the effective date of chapter 499, laws of 1911. All construction and reconstruction since that time has been in accordance with the statute. No special effort has been made to reconstruct petitioner's system for the sole purpose of complying with the statute.

An estimate was filed by petitioner with the petition, showing an expenditure of \$1,379.00 to reconstruct its property in accordance with the statute. In the petition herein, petitioner alleges that, owing to its financial condition, an extension of three years to September 17, 1920, will be necessary for the completion of this work. The infractions which remain to be corrected consist principally of the following:

Horizontal separation at poles.

Insulating guys.

Insulation of vertical runs on poles.

The first item constitutes 75 per cent of the work.

The commission's engineers have carefully examined petitioner's estimate and have made an inspection on the ground for the purpose of determining whether the amount reasonably represents the cost of the necessary reconstruction. The commission's estimate is approximately \$380.00 less than that filed by petitioner, due principally to the segregation of pole costs.

According to the testimony, petitioner was able recently to purchase a large number of poles at a price considerably below the market value, thus resulting in a saving of about \$200.00 on this work.

In reference to petitioner's financial condition, testimony was given that practically the entire indebtedness against petitioner has now been liquidated. This fact, coupled with the reduction in the estimate

hereinabove referred to, will enable petitioner, according to the testimony, to remove all violations of these statutes within six months.

No unusual hazard exists on petitioner's system. After careful consideration of all the factors entering into the problem, we have reached the conclusion that an extension of time until February 22, 1918, should be granted to petitioner.

We submit the following form of order:

**ORDER.**

Fowler Independent Telephone Company having applied for an order extending the time within which to comply with the provisions of chapter 499, laws of 1911, as amended by chapter 600, laws of 1915, and a public hearing having been held,

*It is hereby ordered* as follows:

The time within which petitioner herein shall reconstruct its existing system so as to comply completely with the provisions of chapter 499, laws of 1911, as amended by chapter 600, laws of 1915, is hereby extended to and including February 22, 1918.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the state of California.

Dated at San Francisco, California, this thirty-first day of October, 1917.

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Decision No. 4808, grade crossing; not printed. See end of volume.

**DECISION No. 4809.**

**IN THE MATTER OF THE APPLICATION OF CLARK BUS LINE, LTD.,  
FOR LEAVE TO ISSUE CERTAIN CAPITAL STOCK AND TO ACQUIRE  
CERTAIN EXISTING AUTOMOBILE STAGE LINES.**

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Application No. 3269.

*Decided October 31, 1917.*

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BY THE COMMISSION.

**ORDER OF DISMISSAL.**

Applicant in the above-entitled matter having made written request that this proceeding be dismissed,

*It is hereby ordered* that the same be and it is hereby dismissed without prejudice.

Dated at San Francisco, California, this thirty-first day of October, 1917.

## DECISION No. 4810.

IN THE MATTER OF THE APPLICATION OF PACIFIC GAS AND ELECTRIC COMPANY FOR AN ORDER OF THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA AUTHORIZING AND APPROVING A PROPOSED AGREEMENT TO BE ENTERED INTO BY AND BETWEEN THE PACIFIC GAS AND ELECTRIC COMPANY AND MRS. MARTHA A. HOGG.

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Application No. 3257.

*Decided November 2, 1917.*

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BY THE COMMISSION.

**ORDER.**

Whereas Pacific Gas and Electric Company has filed with this commission its application for authorization and approval of a certain proposed agreement between it and Mrs. Martha A. Hogg for electric service for lighting, heating and power at the latter's residence in Saratoga, Santa Clara County; and

Whereas in said proposed agreement it is set forth that for a period of three years after service is first rendered Mrs. Martha A. Hogg shall guarantee to Pacific Gas and Electric Company a minimum annual revenue of \$150.00, payable in equal monthly installments; and

Whereas said minimum requirement appears to be reasonable under the condition in this particular case,

*It is hereby ordered* that Pacific Gas and Electric Company may require the payment by Mrs. Martha A. Hogg, for the service to be rendered, of a minimum annual revenue of \$150.00, payable in equal monthly installments, for a period of three years.

In case the above guarantee is made in the form of a contract, two copies of said contract shall be filed with the commission within ten days after the execution of said contract.

Dated at San Francisco, California, this second day of November, 1917.

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Decisions Nos. 4811 and 4812, grade crossings; not printed. See end of volume.

## DECISION No. 4813.

IN THE MATTER OF THE APPLICATION OF PRODUCERS GAS AND FUEL COMPANY FOR A CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY.

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Application No. 2742.

*Decided November 5, 1917.*

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BY THE COMMISSION.

**SECOND SUPPLEMENTAL ORDER.**

It is hereby declared that in accordance with the order heretofore made in this proceeding on October 20, 1917, Producers Gas and Fuel



Company has filed a stipulation, duly authorized by its board of directors, declaring that neither said company, its successors nor assigns, will ever claim before the Railroad Commission or any court or other public body a value for the rights and privileges granted in Ordinance No. 120 of the county of Kern, adopted April 6, 1917, and Ordinance No. 35 of the city of McKittrick, adopted April 3, 1917, in excess of the actual cost of acquiring said rights and privileges, which cost is stated to be \$373.50.

Dated at San Francisco, California, this fifth day of November, 1917.

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DECISION No. 4814.

IN THE MATTER OF RATES, FARES, CHARGES, CLASSIFICATIONS, RULES AND REGULATIONS OF TRANSPORTATION COMPANIES AS DEFINED IN CHAPTER 213, LAWS OF 1917.

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Case No. 1110.

*Decided November 6, 1917.*

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- General review of the act regulating the operation of stages and trucks: 1. When such carriers are operating wholly within the incorporated limits of a municipality, such municipality shall have exclusive jurisdiction, otherwise the regulation of such transportation companies is vested in the Railroad Commission.
2. Carriers operating over a regular route between fixed termini must secure a permit from all public authorities through whose territory they operate, provided they were not operating prior to May 1, 1917; also such carriers operating other than wholly within the incorporated limits of a city or town must secure a certificate of public convenience and necessity from the Railroad Commission.
  3. Permission must be secured from the Railroad Commission before a carrier may issue any stock or bonds, note or other evidence of indebtedness payable at a period of more than twelve months when the aggregate amount of outstanding notes or indebtedness shall at any one time exceed the sum of \$2,500.00.
  4. The Railroad Commission has jurisdiction to fix rates, classifications and rules and to regulate the accounts, service and safety of such transportation companies, which jurisdiction shall supersede any conflicting jurisdiction exercised by any municipal or county authorities.
  5. Rules and regulations established governing rates and fares, issuance of free transportation, time schedules and the places and manner of filing bonds, together with sixteen general rules governing the safety of operation of stages and trucks.

BY THE COMMISSION.

**OPINION.**

This is an investigation on the commission's own motion into the matter of the rates, fares, charges, classifications, rules and regulations of transportation companies as defined in chapter 213, laws of 1917, which became effective August 27, 1917. This statute embodies a comprehensive state-wide plan for the regulation of the transportation of persons or property by horse-drawn or automobile stages or trucks operating as common carriers. We believe this statute to be of sufficient importance to be set forth here in full:

## "CHAPTER 213.

*"An act providing for the supervision and regulation of the transportation of persons and property for compensation over any public highway by automobiles, jitney busses, auto trucks, stages and auto stages; providing for the issue by incorporated cities and towns, cities and counties, and counties of permits for the operation of such automobiles, jitney busses, auto trucks, stages and auto stages; empowering incorporated cities and towns, cities and counties, and counties to enact ordinances for the supervision and regulation of automobiles, jitney busses, auto trucks, stages and auto stages and providing penalties for the violation of such ordinances; defining transportation companies and providing for the supervision and regulation thereof by the railroad commission; providing for the enforcement of the provisions of this act and for the punishment of violations thereof; and repealing all acts and parts of acts inconsistent with the provisions of this act.*

(Approved May 10, 1917.)

*"The people of the State of California do enact as follows:*

"SECTION 1. (a) The term 'corporation,' when used in this act, means a corporation, a company, an association or a joint stock association.

"(b) The term 'person,' when used in this act, means an individual, a firm or a copartnership.

"(c) The term 'transportation company,' when used in this act, means every corporation or person, their lessees, trustees, receivers or trustees appointed by any court whatsoever, owning, controlling, operating or managing any automobile, jitney bus, auto truck, stage or auto stage used in the transportation of persons or property as a common carrier for compensation over any public highway in this state between fixed termini or over a regular route and not operating exclusively within the limits of an incorporated city or town or of a city and county; *provided*, that the term 'transportation company,' as used in this act, shall not include corporations or persons, their lessees, trustees, receivers or trustees appointed by any court whatsoever, in so far as they own, control, operate or manage taxicabs, hotel busses or sight-seeing busses, or any other carrier which does not come within the term 'transportation company,' as herein defined.

"(d) The term 'public highway,' when used in this act, means every public street, road or highway in this state.

"(e) The words 'between fixed termini or over a regular route,' when used in this act, mean the termini or route between or over which any corporation or person, their lessees, trustees, receivers or trustees appointed by any court whatsoever, usually, or ordinarily operate any automobile, jitney bus, auto truck, stage or auto stage, even though there may be departures from said termini or route, whether such departures be periodic or irregular. Whether or not any automobile, jitney bus, auto truck, stage or auto stage is operating 'between fixed termini or over a regular

route' within the meaning of this act shall be a question of fact and the finding of the railroad commission thereon shall be final and shall not be subject to review.

"SEC. 2. No corporation or person, their lessees, trustees, receivers or trustees appointed by any court whatsoever, shall operate any automobile, jitney bus, auto truck, stage or auto stage for the transportation of persons or property for compensation on any public highway in this state except in accordance with the provisions of this act.

"SEC. 3. (a) No corporation or person, their lessees, trustees, receivers or trustees appointed by any court whatsoever, shall operate any automobile, jitney bus, auto truck, stage or auto stage for the transportation of persons or property as a common carrier for compensation on any public highway in this state between any fixed termini between which or over any route over which such corporation, their lessees, trustees, receivers or trustees appointed by any court whatsoever, are not actually operating in good faith on May 1, 1917, unless a permit has first been secured as herein provided.

"(b) Application for such permit shall be made by such corporation or person, their lessees, trustees, receivers or trustees appointed by any court whatsoever, to the legislative or other governing board or body of each incorporated city or town, city and county, and county within or through which applicant intends to operate. Such application shall be in writing, verified by applicant, and shall specify the following matters:

"(1) The name and address of applicant and the names and addresses of its officers, if any.

"(2) The public highway or highways over which and the fixed termini or the regular route, if any, between which or over which applicant intends to operate.

"(3) The kind of transportation, whether passenger or freight or both, in which applicant intends to engage, together with a brief description of each vehicle which applicant intends to use, including the seating capacity thereof if for passenger traffic or the tonnage if for freight traffic.

"(4) A proposed time schedule, if any.

"(5) A schedule or tariff showing the passenger fares or freight rates to be charged between the several points or localities to be served.

"(c) Upon the filing of said application, the legislative or other governing board or body with which the same has been filed may in its discretion fix a time and place for a hearing on said application, which time shall not be less than five days subsequent to the filing of said application. No application shall be granted without a hearing. When a time and place for hearing have been fixed the applicant shall, at least three days prior to said hearing, cause to be published in a newspaper of general circulation in the incorporated city or town, city and county, or county within which applicant desires to exercise a permit, a notice reciting the fact of the filing of said application, together with a statement of the time and place of the hearing of said application.

"(d) At the time specified in said notice or at such later time as may be fixed by said legislative or other governing board or body, a public hearing upon said application shall be held by or under the direction of said legislative or other governing board or body. After such hearing, said legislative or other governing board or body may issue the permit as prayed for or refuse to issue the same, or may issue the same with modifications and upon such terms and conditions as in its judgment the public convenience and necessity may require.

"(e) Each permit issued under the provisions of this act shall contain the following matters:

"(1) The name of the grantee.

"(2) The public highway or highways over which, and the fixed termini, if any, between which the grantee is permitted to operate.

"(3) The kind of transportation, whether passenger or freight, in which the grantee is permitted to engage, together with a statement of the number and of the maximum seating or tonnage capacity of the vehicles which the grantee is permitted to operate.

"(4) The term for which the permit is granted, which term shall not exceed five years.

"(5) Such additional matters as said legislative or other governing board or body may deem necessary or proper to be inserted in said permit.

"No permit issued under the provisions of this act may be assigned or transferred without the consent of the granting authority.

"(f) Each incorporated city or town, city and county, and county shall have the power, by ordinance, to supervise and regulate every corporation or person, their lessees, trustees, receivers or trustees appointed by any court whatsoever, owning, controlling, operating or managing any automobile, jitney bus, auto truck, stage or auto stage, used for the transportation of persons or property for compensation over any public highway within their respective territorial limits, and in the exercise of such power may provide for the licensing of all drivers, the filing of indemnity bonds, the enactment of traffic rules and regulations, the regulation of the rates, service and safety of all corporations and persons, their lessees, trustees, receivers or trustees appointed by any court whatsoever, and all other matters affecting the relationship between such carriers and the traveling and shipping public, with power to prescribe penalties for the violation of such ordinances; *provided*, that the power in this act granted to incorporated cities and towns, cities and counties, and counties shall at all times be subject to and in no instance be construed to impair the jurisdiction of the railroad commission of the State of California as conferred by the constitution of this state or by this act.

"(g) Nothing in this act shall be construed as in any way limiting or impairing the power of any incorporated city or town, city and county, or county, to prevent corporations and persons, their lessees, trustees, receivers or trustees appointed by any

court whatsoever, engaged on May 1, 1917, in the transportation of persons or property for compensation over any public highway or highways in this state from thereafter using any public highway or highways within the territorial limits of such incorporated city or town, city and county, or county, unless they shall first have secured from such incorporated city or town, city and county, or county, a franchise or permit for the use of such public highway or highways in accordance with the organic law of such incorporated city or town, city and county, or county.

"SEC. 4. The railroad commission of the State of California is hereby vested with power and authority to supervise and regulate every transportation company in this state; to fix the rates, fares, charges, classifications, rules and regulations of each such transportation company; to regulate the accounts, service and safety of operations of each such transportation company; to require the filing of annual and other reports and of other data by such transportation companies; and to supervise and regulate transportation companies in all other matters affecting the relationship between such companies and the traveling and shipping public. The railroad commission shall have power and authority, by general order or otherwise, to prescribe rules and regulations applicable to any and all transportation companies. The railroad commission, in the exercise of the jurisdiction conferred upon it by the constitution of this state, and by this act, shall have power and authority to make orders and to prescribe rules and regulations affecting transportation companies, notwithstanding the provisions of any ordinance or permit of any incorporated city or town, city and county, or county, and in case of conflict between any such order, rule or regulation and any such ordinance or permit, the order, rule or regulation of the railroad commission shall in each instance prevail.

"SEC. 5. No transportation company shall hereafter exercise any right or privilege under any franchise or permit hereafter granted by any incorporated city or town, city and county, or county, without having first obtained from the railroad commission a certificate declaring that public convenience and necessity require the exercise of such right or privilege, but no such certificate shall be required of any transportation company as to the fixed termini between which or the route over which it is actually operating in good faith on May 1, 1917. A transportation company may apply for a certificate of public convenience and necessity in advance of securing any franchise or permit for the use of the public highways constituting the proposed route. The railroad commission shall have power, with or without hearing, to issue said certificate as prayed for, or to refuse to issue the same, or to issue it for the partial exercise only of said privilege sought, and may attach to the exercise of the rights granted by said certificate such terms and conditions as, in its judgment, the public convenience and necessity may require.

"The railroad commission may at any time for a good cause suspend and upon notice to the grantee of any certificate and opportunity to be heard revoke, alter or amend any certificate issued under the provisions of this section.

"SEC. 6. No transportation company may issue any stock or stock certificate, or any bond, or any note or other evidence of indebtedness payable at a period of more than twelve months after the date thereof in such an amount that the aggregate amount of notes or other evidences of indebtedness at any one time outstanding shall exceed the amount of two thousand five hundred dollars, unless such transportation company, in addition to the other requirements of law, shall first have secured from the railroad commission an order authorizing such issue and stating the amount thereof and the purpose or purposes to which the issue or the proceeds thereof are to be applied and that, in the opinion of the railroad commission, the money, property or labor to be procured or paid for by such issue is reasonably required for the purpose or purposes specified in the order and that, except as otherwise permitted in the order in the case of bonds, notes and other evidences of indebtedness, such purpose or purposes are not, in whole or in part, reasonably chargeable to operating expenses or to income. Such order may be made, in the discretion of the railroad commission, either with or without a public hearing. Except as in this section otherwise provided, the provisions of section fifty-two of the public utilities act referring to the purposes for which stocks and stock certificates, bonds, notes and other evidences of indebtedness, may be issued and the application of and the accounting for the proceeds thereof, the powers and duties of the railroad commission and the rights and duties of public utilities with reference thereto, the legal status of stocks and stock certificates and of bonds, notes and other evidences of indebtedness, issued without an order of the railroad commission then in effect, and the relationship of the State of California to such stocks and stock certificates, and such bonds, notes and other evidences of indebtedness, shall apply to and govern the issue of stocks and stock certificates, and of bonds, notes and other evidences of indebtedness, of transportation companies with the same force and effect as though section fifty-two of the public utilities act were restated in this section with the substitution of the words 'transportation company' for the words 'public utility' and of the words 'transportation companies' for the words 'public utilities.' The provisions of section fifty-seven of the public utilities act referring to fees to be charged and collected by the railroad commission for certificates authorizing the issue of bonds, notes or other evidences of indebtedness of public utilities shall apply to and govern authorizations by the railroad commission of the issue by transportation companies of bonds, notes or other evidences of indebtedness.

"SEC. 7. In all respects in which the railroad commission has power and authority under the constitution of this state or this act, applications and complaints may be made and filed with the railroad commission, process issued, hearings held, opinions, orders and decisions made and filed, petitions for rehearing filed and acted upon, and petitions for writs of review or mandate filed with the supreme court of this state, considered and disposed of by said court, in the manner, under the conditions and subject to the limitations and with the effect specified in the public utilities act.

"SEC. 8. Every officer, agent or employee of any corporation, and every other person who violates or fails to comply with, or who procures, aids or abets in the violation of any provision of this act, or who fails to obey, observe or comply with any order, decision, rule or regulation, direction, demand or requirement, or any part or provision thereof, of the railroad commission, or who procures, aids or abets any corporation or person in his failure to obey, observe or comply with any such order, decision, rule, direction, demand or regulation, or any part or provision thereof, is guilty of a misdemeanor and is punishable by a fine not exceeding one thousand dollars or by imprisonment in the county jail not exceeding one year, or by both such fine and imprisonment.

"SEC. 9. Neither this act nor any provision thereof shall apply or be construed to apply to commerce with foreign nations or commerce among the several states of this union, except in so far as the same may be permitted under the provisions of the constitution of the United States and the acts of congress.

"SEC. 10. If any section, subsection, sentence, clause or phrase of this act is for any reason held to be unconstitutional, such decision shall not affect the validity of the remaining portions of this act. The legislature hereby declares that it would have passed this act, and each section, subsection, sentence, clause and phrase thereof, irrespective of the fact that any one or more other sections, subsections, sentences, clauses or phrases be declared unconstitutional.

"SEC. 11. All acts and parts of acts inconsistent with the provisions of this act are hereby repealed. The provisions of an act entitled 'An act providing for the sale of street railroad and other franchises in counties and municipalities and providing conditions for the granting of such franchises by legislative or other governing bodies, and repealing conflicting acts (approved March 22, 1905, Stats. 1905, p. 777),' are declared not to apply to the use of highways for the kind of transportation herein regulated."

We believe it is unnecessary to discuss all the provisions of this statute. There are certain provisions, however, to which we desire to draw attention. In the first place, the statute draws a distinct line between the power of incorporated cities and the power of the Railroad Commission with reference to the regulation of transportation by stages and trucks. When such transportation is conducted wholly within the limits of an incorporated city, the municipality has exclusive jurisdiction with reference to the regulation thereof. When, however, such transportation is not confined within the limits of an incorporated city, regulation of such transportation is vested in the Railroad Commission. This line of demarcation between the powers of incorporated cities and the powers of the Railroad Commission was made in accordance with that indicated and approved by the Supreme Court in *Western Association of Short Line Railroads vs. Railroad Commission*, 173 Cal. 802.

(a) **Local permits must be obtained.**

The statute provides in section 3 that no corporation or person "shall operate any automobile, jitney bus, auto truck, stage or auto stage for the transportation of persons or property as a common carrier for compensation on any public highway in this state between any fixed termini between which or over any route over which" such transportation is not actually being carried on by said corporation or person "in good faith on May 1, 1917, *unless a permit has first been secured as herein provided,*" from the local authorities over whose highways it is proposed to operate. In other words, a permit must be obtained from the local authorities before any one can engage in such transportation business as a common carrier between fixed termini or over defined routes, except as such operation was being made in good faith on May 1, 1917. The statute then sets out in detail the manner in which an application for permit shall be made to the municipality or county authorities and the manner in which the same shall be granted. The statute further contains an affirmative grant to municipalities and counties of the power to supervise and regulate such transportation within their limits and to grant or refuse permits.

(b) **Certificates of public convenience and necessity.**

Stage or truck transportation conducted wholly within the limits of an incorporated city does not require a certificate of public convenience and necessity from the Railroad Commission. A certificate of public convenience and necessity must, however, be obtained in certain cases in which such transportation is conducted otherwise than wholly within the limits of an incorporated city. Section 5 of the act requires such a certificate to be obtained from every "transportation company" except as to the operations of such company between fixed termini or over regular routes which were being conducted in good faith on May 1, 1917.

The term "transportation company" is specifically defined in section 1 (c) of the statute. The jurisdiction of the Railroad Commission is confined to transportation companies as thus defined, and when the term "transportation company" is used in the opinion and order herein, it must be understood that the term is used according to the definition in section 1 (c) in the statute. We desire to point out also that the statute gives to the Railroad Commission in section 1 (e) the final determination of whether a transportation company, any automobile, jitney bus, auto truck, stage or auto stage is operating "between fixed termini or over a regular route" so as to make the same a transportation company under the jurisdiction of the Railroad Commission.

(c) **Issue of securities.**

Section 6 of the statute requires that the consent of the Railroad Commission be obtained before any transportation company may issue



any stock or stock certificate or any bond, or any note or other evidence of indebtedness payable at a period of more than twelve months after the date thereof in such an amount that the aggregate amount of notes or other evidences of indebtedness at any one time outstanding, shall exceed the amount of \$2,500.00.

**(d) Power of Railroad Commission with reference to transportation companies.**

The Railroad Commission is vested with power and authority to fix the rates, fares, charges, classifications, rules and regulations of such companies; to regulate the accounts, service and safety of operation of such companies; to require the filing of annual and other reports, and to supervise and regulate such companies in "all other matters affecting the relationship between such companies and the traveling and the shipping public."

**(e) Railroad Commission regulations supersede local regulations.**

The statute specifically provides in section 4 that the exercise by the Railroad Commission of the jurisdiction conferred upon it under the constitution or statutes of this state shall supersede any conflicting exercise of municipal or county jurisdiction. In other words, any order, rule or regulation made by the Railroad Commission in the exercise of the authority conferred upon it shall supersede the conflicting provisions of any municipal or county ordinance.

Furthermore, the Railroad Commission is given specific authority to prescribe rules and regulations with reference to transportation companies either "by general order or otherwise."

We believe it unnecessary to refer to the other provisions of the statute, which relate more particularly to the procedure to be followed by the Railroad Commission and the courts in carrying out the powers of regulation provided in the statute.

**NOTICE AND HEARINGS.**

Two public hearings were held in this proceeding, one in Los Angeles on July 25, 1917, and the other in San Francisco on August 8, 1917. A copy of the order instituting this investigation and a notice of the hearings were served by the Railroad Commission on every transportation company so far as known. In addition, very widespread publicity of the hearings was given in the public press. As a result the hearings were very largely attended by representatives of counties, municipalities and other public organizations, transportation companies and representatives of the railroads. These hearings revealed a universal spirit of cooperation by all interested parties in the matter of the successful regulation of transportation companies under the statute, and the Railroad Commission received many helpful suggestions from those present at the hearings.

**PURPOSE OF PROCEEDING.**

The purpose of the present proceeding is to make a complete investigation into the operation of transportation companies and to formulate such a set of rules and regulations governing these transportation companies as to the Railroad Commission may seem reasonable.

The business of transportation by stage and trucks, while having its origin in California, is still in its early development. We believe that such transportation has come to stay, and that properly developed it will become a very necessary public convenience. In working out, therefore, the matter of the regulation of these transportation companies we hope for a continuance of the cooperative spirit which has been heretofore displayed. In preparing the rules and regulations governing the operations of these transportation companies we have had in mind the convenience and safety of the public and also the convenience of the transportation companies themselves. We believe that we have formulated a set of rules and regulations which provide the greatest amount of convenience and safety to the public combined with the minimum of burden on the transportation companies. Of course, the future may reveal that certain of these rules and regulations will have to be modified or changed, and the commission will be glad to entertain applications therefor as occasion arises.

We have also formulated certain rules and regulations governing the matter of rates and the selling of tickets. Concurrently with the order in this proceeding the Railroad Commission is issuing in the form of a General Order No. 51 a tariff circular prescribing the rules and regulations under which the transportation companies shall file their tariffs with the Railroad Commission. There must, of course, be uniformity in the filing of tariffs, and every transportation company will be directed to file its tariffs in accordance with such circular.

**RATES AND TIME SCHEDULES**

The Railroad Commission, on January 18, 1917, issued its General Order No. 47, calling upon automobile passenger and freight carriers to file with the Railroad Commission their schedules of rates, fares, charges, classifications and time schedules. This general order was issued prior to the passage of chapter 213, statutes of 1917. The term, "transportation company," as defined in said statute is broader than automobile passenger and freight carriers to which General Order No. 47 applies. The Railroad Commission will accordingly issue an order in this proceeding requiring all transportation companies to file the same in accordance with the provisions of the tariff circular to be issued concurrently herewith as General Order No. 51.

All transportation companies will be directed to strictly adhere to the rates, fares, charges and classifications on file with the Railroad

Commission. No change in any rate can be made without the authority of the Railroad Commission having been first obtained, as provided in Rules 10 and 11 of the Tariff Circular this day being issued.

The question of when and under what circumstances a transportation company may furnish free or reduced rate transportation was brought up at the hearings in this proceeding. We do not believe that it is necessary to authorize free or reduced rate transportation in all the instances named in section 17 of the Public Utilities Act as applicable to railroad corporations. We favor the issuance of free or reduced rate service of all public utilities in as few instances as possible. We believe it is sufficient with reference to transportation companies to confine the issuance of free or reduced rate transportation to the officers, agents and employees of transportation companies and to the members of their families, and for charitable and patriotic purposes. It should be clearly understood that the authority herein given is merely permissive and that transportation companies need not issue such transportation unless they desire to do so. In the event that other instances arise warranting the issuance of free or reduced rate transportation, the Railroad Commission may, at that time, be requested to make the necessary authorizations.

The Railroad Commission will require the filing with it of time schedules and the posting of the same at each station where tickets are sold, and that a copy thereof be in the possession of each driver. Furthermore, the Railroad Commission must be advised in advance of changes in time schedules, as provided in the order herein.

#### **TICKETS.**

Considerable abuse was shown to exist in the matter of selling and honoring tickets. In some instances, individuals have made a practice of collecting a group of prospective passengers and then turning them over to whatever transportation company will pay them the greatest compensation as "commission." Also, competing transportation companies have been reported to honor the tickets of competitors, and after delivering the passenger at his destination, to sell the competitor's ticket for what it will bring. These are merely illustrations of the possibilities which exist with reference to such abuses. The consensus of opinion among the representatives of the transportation companies represented at the hearings was in favor of definite regulation with reference to the selling and honoring of tickets which will eliminate the possibility of these and other abuses.

#### **BONDS AND INDEMNITY AGREEMENTS.**

The matter of filing bonds or indemnity agreements by transportation companies to cover damage and injuries resulting from negligence, defects in equipment and accidents of transportation companies is

very important. Several cities and counties now have, by ordinance, provided for the filing of such bonds or indemnity agreements. The practice has been frequently followed of having the original bond or agreement filed with the principal municipality through which the transportation company operates, duplicates of such bond or agreement being filed in the other cities and counties. This question, however, presents certain difficulties. The requirements of the different cities and counties as to the amount and conditions of such bonds and agreements are not at present uniform. The transportation companies accordingly asked the Railroad Commission to make a regulation requiring the filing with the Railroad Commission of the necessary bond or indemnity agreement and have the same apply wherever the company operates. We believe that the amounts, terms and conditions and regulations for the filing of bonds and indemnity agreements should be made uniform. It appears to us, however, that this uniformity is not best attained by having bonds and indemnity agreements filed with the Railroad Commission. The character and responsibility of the sureties who go upon these bonds or agreements can best be determined in the locality in which they are made, and if it becomes necessary to inspect or sue upon the bond or agreement, the same should be available in the locality to which they apply. For these reasons, among others, it would be impracticable to have all these bonds and agreements filed with the Railroad Commission.

We accordingly recommend to every city and county the adoption of a uniform regulation with reference to this matter. The form of bond or indemnity agreement most generally in effect at present is required to be made in the sum of \$10,000.00 upon each vehicle in operation (giving its manufacturer's number and the state license number) and conditioned that the transportation company will pay all loss or damage which may result to any person or property from the negligent operation or defective construction of said vehicle or which may arise or result from any violation of any of the provisions of the laws of this state or local ordinances. The recovery upon said bond is limited to \$5,000.00 for the injury or death of one person, \$10,000.00 for the injury or death of two or more persons in the same accident, and \$1,000.00 for the injury or destruction of property. We believe that this is a reasonable bond to require, and we urge upon every city and county to put into effect a regulation requiring the sort of bond above outlined. Furthermore, we believe that the regulation should provide that a bond or agreement may either be provided separately for each vehicle, or one aggregate bond or agreement covering the entire business of the company, and that the original bond or agreement be filed with the municipality or county authorities at either terminus of the

transportation company's route, and that a duplicate thereof may be filed in each of the other municipalities and counties through which the transportation company operates.

A copy of this order will be sent to each city and county authority, in order that they may be advised as to the recommendations of the commission with reference to the establishment of a uniform practice with reference to this matter.

#### **SAFETY RULES AND OPERATING REGULATIONS.**

The order herein will provide 16 safety rules and operating regulations for transportation companies. We do not believe it necessary to discuss these rules and regulations, as we believe their purpose is, in each instance, obvious. These rules cover all the matters which at this time seem to the commission to require the commission's regulation. Such alterations or conditions as future developments may show to be needed may, of course, hereafter be made.

#### **ORDER.**

This proceeding having been regularly instituted on the Railroad Commission's own motion and hearings having been had, at which all interested parties were given an opportunity to appear and present evidence, and the Railroad Commission being duly advised in the premises,

*It is hereby ordered* as follows:

##### **1. Rates.**

Each transportation company shall, within sixty (60) days from the date of this order, file with the Railroad Commission, in accordance with the provisions of the tariff circular being issued concurrently herewith, General Order No. 51, schedules of its rates, fares, charges and classifications charged and collected by it in its service as a common carrier. Every transportation company to which General Order No. 47 does not apply, shall file the rates, fares, charges and classifications in effect on August 27, 1917, when chapter 213, statutes 1917 became effective, or such rates, fares, charges and classifications as have since been lawfully filed with the Railroad Commission.

No such transportation company shall charge, demand, collect or receive a greater or less or different compensation for the transportation of persons or property, or for any service in connection therewith, than the rates, fares and charges applicable to such transportation as specified in its schedules filed and in effect at the time; nor shall any such transportation company refund or remit in any manner or by any device any portion of the rates, fares or charges so specified, except upon an order or permission from the commission, nor extend to any corporation or person any privilege or facility in the transpor-

tation of passengers or property except such as are regularly and uniformly extended to all corporations and persons.

No transportation company shall, directly or indirectly, issue, give or tender any free ticket, free pass, or free or reduced rate transportation except to its officers, agents, employees, and members of their families or for charitable or patriotic purposes.

## **2. Time Schedules.**

Every transportation company shall, within thirty (30) days from the date of this order, file with the Railroad Commission two copies of a working time schedule. Such schedules shall be typewritten or printed on good paper at least eight and one-half by eleven inches in size. Such schedule shall show the name of the operating company, the date and hour effective, the time of arrival and departure from and at all termini, and time of departure from all intermediate points between termini; also distance between all stops scheduled to be made either regularly or on application by intending passengers. A copy of time schedule shall be posted at each terminus and at all intermediate stations where tickets are sold, and a copy of such schedule shall be in the possession of each operator or driver of any vehicle used in the transportation of passengers. Time schedules as filed with this commission and posted for the information of the public must be strictly adhered to in the operation of passenger-carrying vehicles.

Whenever a change is made by a transportation company in the scheduled time of arrival or departure of any regular passenger-carrying vehicle, such information shall be posted by such transportation company in a conspicuous place at each terminus, at each intermediate point where an agency is maintained, and filed with this commission at least five days before the change is to become effective.

Whenever a change in time schedule is to be made by a transportation company which will effect a reduction in the number of passenger vehicles operated over any scheduled route or which will effect a reduction in the amount of passenger vehicle service rendered at any terminal station or intermediate stop, such transportation company must submit to the Railroad Commission at least thirty (30) days before the change is to become effective an approximate time schedule outline showing the proposed reduction in service. The approval of the commission must be received for such reductions in service before such time schedules are filed with the commission as hereinabove provided.

## **3. Tickets.**

No transportation company may accept for passage via its line any ticket other than its own issue, except it be a coupon of a through joint ticket reading via its line issued by a connecting carrier or in case where optional route arrangements are provided for under the

terms of joint tariffs on file with the commission and in which tariffs the line honoring is shown as a participating carrier.

No transportation company may in any manner, pay a commission to any party or person, ticket agent or ticket agency, for the sale of tickets, unless a bona fide contract or agreement has been executed making such party the lawful agent of the transportation company, and copy of such contract or agreement has been filed with and approved by the commission; party appointed becomes the agent of the transportation company and as such will be held responsible as its agent. If any part of the compensation paid by a transportation company to such agent is used, either directly or indirectly, in such way as to reduce for any person the lawful tariff charges of such transportation company causing or permitting such departure from tariff charges shall be subject to the penalties set forth in section 8, chapter 213, statutes 1917.

#### **4. Safety Rules and Operating Regulations.**

Every transportation company shall, within thirty (30) days from the date of this order, put into effect and comply with the following safety rules and operating regulations:

##### **Maintenance.**

1. Every motor vehicle shall be maintained in a safe and sanitary condition at all times and shall be at all times subject to the inspection of the commission and its duly authorized representatives.

##### **Speedometers.**

2. Every motor vehicle shall be equipped with a standard speedometer which shall be maintained in good working order.

##### **Inside Lights.**

3. Every motor vehicle used in the transportation of passengers and having a covered top or top up, shall maintain a light or lights of not less than two candle power each within the vehicle and so arranged as to light up the whole of the interior of the vehicle, and such light or lights shall be kept constantly lighted between the hours of sunset and sunrise at all times when vehicle is occupied by passengers.

##### **Extra Tires.**

4. Every motor vehicle used in the transportation of passengers shall when leaving either terminus be equipped with at least one (1) extra serviceable tire.

##### **Brakes.**

5. Every motor vehicle shall be equipped with satisfactory brakes and such brakes shall at all times be maintained in good condition and with a braking power sufficient to lock the rear wheels of said

vehicle when brakes are fully applied and vehicle is operated at a speed of ten miles per hour.

**Skid Chains.**

6. Every motor vehicle used in the transportation of passengers shall at all times carry a set of skid chains which shall be applied to the rear wheels whenever necessary to prevent skidding.

**Warning Device and Fire Protection.**

7. Every motor vehicle shall be equipped with a suitable horn or other similar warning device.

Every motor vehicle used for the transportation of passengers shall be equipped with a liquid fire extinguisher of a design or type approved by the commission and such extinguisher shall be kept in satisfactory operative condition at all times.

**Age and Competency of Drivers of Motors.**

8. Drivers of vehicles shall be at least twenty-one (21) years of age, of good moral character, shall be fully competent to operate the vehicles under their charge and shall hold license from the State Motor Vehicle Department as required by section 24, paragraph (a) of the Motor Vehicle Act.

**Use of Intoxicating Liquor.**

9. No driver or operator of any motor vehicle carrying passengers shall drink any intoxicating liquor during the time he is on duty or at any time use intoxicating liquor to excess.

**Use of Tobacco.**

10. No driver or operator of any motor vehicle carrying passengers shall smoke any cigar, cigarette, tobacco or other substance in such vehicle during the time he is driving the vehicle.

11. No transportation company owning, controlling, operating or managing any motor vehicle used in the transportation of persons or property as a common carrier for compensation shall cause or allow any driver or operator of such motor vehicle to work as driver or operator for more than a maximum of ten (10) hours in any twenty-four (24) hour period.

**Obligation to Carry Passengers.**

12. No driver or operator of any motor vehicle for passenger transportation shall refuse to carry any person offering himself or herself at any regular stopping place for carriage and who tenders the regular fare to any regular stopping place on the route of said motor vehicle or between the termini thereof unless at the time of such offer the seats of said motor vehicle are fully occupied; provided, however, that the driver or operator of such motor vehicle may refuse



transportation to any person who is in an intoxicated condition or conducting himself in a boisterous or disorderly manner or is using profane language.

**Overcrowding of Vehicles.**

13. No motor vehicle used in the transportation of passengers shall be allowed to carry more passengers than the rated carrying capacity as filed with the commission. Drivers and operators will not be permitted to allow passengers to ride on the running boards, fenders or any other part of the vehicle than the seats thereof.

No driver or operator of a motor vehicle used for passenger traffic shall permit or allow on the front seat of such motor vehicle more passengers than the seat is designed to carry, exclusive of the driver; or permit or allow any passenger to occupy any other portion of said vehicle forward of the back of the driver's seat.

No passenger shall be allowed to sit on the front seat to the left of the driver if a left-hand drive motor vehicle, or to the right of the driver if a right-hand drive motor vehicle.

No more than one passenger shall occupy the front seat of any motor vehicle with a touring car body, operated by center control.

**Trailers.**

14. Except when specially authorized by the Railroad Commission, no motor vehicle used in the transportation of passengers shall be operated or driven with any trailer or other vehicle attached thereto; except in case a vehicle becomes disabled while on a trip and is unable to run from its own power, such disabled car may be towed to the nearest point where repair facilities are available.

**Loads on Running Board.**

15. No motor vehicle used for the carriage of passengers shall be operated carrying or transporting any luggage, baggage, package, trunk, crate or other load which shall extend more than eight inches beyond the running board of said motor vehicle.

**Jurisdiction Over Regulations.**

16. These rules and regulations shall prevail over and supersede every county or municipal rule or regulation in conflict therewith but shall not be construed to prevail over or supersede any other rule or regulation lawfully in effect.

Every transportation company should procure and acquaint itself with the provisions of the State Motor Vehicle Act concerning lights as appearing in section thirteen (13) paragraphs "a", "c", and "d". Also with the provisions covering rules of the road and method of operation as contained in section twenty (20), paragraphs "a", "b", "c", "d", "e", "f", "g", "h", "i", "j", "k", "l", and "p". Also with the provisions covering speed of vehicles as contained in section twenty-two (22), paragraphs "a" and "b".

The Railroad Commission hereby finds as a fact that all of the rules and regulations prescribed in the foregoing order are just and reasonable.

Dated at San Francisco, California, this sixth day of November, 1917.

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DECISION No. 4815.

IN THE MATTER OF THE APPLICATION OF PRODUCERS GAS AND FUEL COMPANY FOR AUTHORITY TO ISSUE ITS STOCK TO THE VALUE OF ONE HUNDRED THOUSAND DOLLARS.

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Application No. 3165.

*Decided November 7, 1917.*

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Applicant authorized to issue 1,000 shares of stock of the par value of \$100.00 per share, such stock to be sold at not less than 80, proceeds to be used in the construction of applicant's natural gas transmission and distributing system in Kern County.

*Murray Bourne*, for Applicant.

BY THE COMMISSION.

**OPINION.**

Producers Gas and Fuel Company asks for authority to issue and sell 1,000 shares of common stock at not less than \$80.00 per share, the proceeds to be used in constructing a natural gas transmission and distributing system.

Applicant was incorporated January 17, 1917, under the laws of the state of California. By Decision No. 4386 (Application No. 2742), dated June 12, 1917, as amended by supplemental orders, the commission authorized applicant to exercise rights and privileges granted by Ordinance No. 120 of the county of Kern and Ordinance No. 35 of the city of McKittrick. A detailed description of the territory in which applicant intends to operate is found in Decision No. 4386. In general it includes the city of McKittrick and adjoining territory, also the Belridge and Lost Hills oil fields of Kern County. Applicant's primary purpose is to sell natural gas to oil producers to be used as fuel under steam boilers, topping plant stills, etc., in lieu of crude oil. In addition it expects to serve the city of McKittrick with natural gas for domestic purposes. It has already constructed a portion of the distributing system necessary to serve this territory and at the present time has six consumers in the oil fields. Its supply of natural gas is located on properties controlled by Mr. E. L. Doheny. An agreement for the purchase of this gas at 5 cents per 1,000 cubic feet has been entered into between Mr. Doheny and applicant's president, Mr. W. G. Kerckhoff, but the formal contract has not yet

been assigned to Producers Gas and Fuel Company. At the hearing witness for applicant testified that this contract will be assigned at any early date and that no consideration will be paid therefor.

Applicant has submitted a preliminary estimate of the expenditures necessary to complete its system. This estimate may be summarized as follows:

Line from Doheny Well No. 1 to McKittrick (14,100 feet 4-4½" and 4½" pipe)-----	\$7,400
Salvaging and relaying-----	2,400
Line from McKittrick to Oling pump station-----	9,500
Domestic mains in town of McKittrick (3,500 feet 2" pipe)-----	1,120
75 domestic services, McKittrick-----	1,150
2 measuring stations around McKittrick-----	1,000
Miscellaneous expenses around McKittrick-----	880
Line from Carnero's pump station to Middlewater pump station (10,000 feet 2" pipe)-----	3,000
Line from Belridge Oil Company's Well No. 2 to Carnero's pump station (6,300 feet 2" pipe)-----	2,010
Line from Standard Oil Company's lease to Union Oil Company's lease (2 miles 4" pipe)-----	7,660
Line from Belridge Oil Company's Well No. 2 to Standard Oil Company's lease and Associated Oil Company's lease (8 miles 4" pipe)-----	30,600
Line from Petroleum Midway Company drilling well to Belridge Oil Company's gas line (3 miles 2" pipe)-----	5,070
Lateral lines around Belridge and Lost Hills (3,300 feet 2" pipe)-----	1,050
10 measuring stations-----	5,000
Miscellaneous expenses-----	2,160
<b>Total-----</b>	<b>\$80,000</b>

Subsequent to the hearing applicant reported that up to September 30, 1917, it had expended on the above estimate the sum of \$5,128.16.

Applicant has a total authorized issue of 1,000 shares of common stock of the par value of \$100.00 per share. It desires to sell all of this stock at a price to net the company \$80,000.00 and to use the proceeds in constructing its system as above outlined. Mr. A. B. Macbeth, applicant's general manager, stated that while no contract had been entered into for sale of this stock, he was certain that the stock could be disposed of at the figure named in the application.

A project of this character is of necessity highly speculative, depending not only upon the supply and cost of producing natural gas but of crude oil as well. It appears, however, that the promoters of this enterprise will be performing an important public service if natural gas, which might otherwise be lost, can be conserved and made available for fuel in place of crude oil. In view of the facts heretofore set forth it appears that this application may be granted subject to the terms of the following order:

#### ORDER.

Producers Gas and Fuel Company having applied to this commission for authority to issue and sell 1,000 shares of capital stock of the par

value of \$100.00 per share at a price to net the company not less than \$80.00 per share for the purpose of constructing a natural gas transmission and distribution system in Kern County as hereinbefore more fully set forth, and a public hearing having been held, and it appearing to this commission that applicant's request is reasonable and should be granted and that the money, property or labor to be procured or paid for by such issue is reasonably required for the purposes specified in the order which purposes are not in whole or in part reasonably chargeable to operating expenses or to income,

*It is hereby ordered* that Producers Gas and Fuel Company be and it is hereby authorized to issued 1,000 shares of its capital stock of the par value of \$100.00 per share.

The authority herein granted is granted upon the following conditions and not otherwise:

(1) The stock herein authorized to be issued shall be sold so as to net applicant not less than \$80.00 per share.

(2) The proceeds from the sale of the stock herein authorized to be issued shall be used solely for the purpose of constructing applicant's natural gas transmission and distribution system in Kern County in accordance with preliminary estimates filed with the application in this proceeding and marked Exhibit "A."

(3) None of the stock herein authorized shall be issued until the contract with E. L. Doheny for supply of natural gas referred to in the preceding opinion shall have been assigned to applicant. A copy of said contract shall be filed with this commission within fifteen days after the assignment thereof.

(4) Producers Gas and Fuel Company shall keep separate, true and accurate accounts showing the receipt and application in detail of the proceeds of the sale of the stock herein authorized to be issued; and on or before the twenty-fifth day of each month the company shall make verified reports to the Railroad Commission stating the sale or sales of said stock during the preceding month, the terms and conditions of the sale, the moneys realized therefrom, and the use and application of such moneys, all in accordance, with this commission's General Order No. 24, which order, in so far as applicable, is made a part of this order.

(5) The authority herein granted applicant to issue stock shall apply only to such stock as shall have been issued on or before September 30, 1918.

**Dated** at San Francisco, California, this seventh day of November, 1917.

## DECISION No. 4816.

IN THE MATTER OF THE APPLICATION OF THE BAY SHORE RAILROAD COMPANY FOR AUTHORITY TO TEMPORARILY DISCONTINUE THE OPERATION OF ITS RAILROAD.

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Application No. 2659.

*Decided November 7, 1917.*

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Applicant, operating a small electric road 2.83 miles in length which has practically no winter travel is authorized to temporarily discontinue service until June 1, 1918.

*Read G. Dilworth, for Applicant.*

BY THE COMMISSION.

**OPINION.**

This is an application in behalf of Bay Shore Railroad Company requesting the approval of this commission to a temporary suspension of operation until June 1, 1918.

Bay Shore Railroad Company operates an electric railroad in the city of San Diego, county of San Diego, state of California, approximately 2.83 miles in length. The line commences at the Ocean Beach terminal of the Point Loma Railroad and runs through Mission Beach, a narrow strip of beach extending between the Pacific Ocean and a shallow body of water known as False Bay.

Mission Beach, through which the railroad operates, is being developed as a summer resort and has no permanent residents. Service on this line was inaugurated on July 15, 1916.

Testimony shows that applicant carried during the month of August, 1917, a total of 1,985 passengers or approximately 65 per day; and from September 1 to 21, inclusive, a total of 867 passengers or approximately 40 passengers per day. During the winter months the number of passengers diminishes to practically none. Similar permission to discontinue service was granted applicant herein during the winter months of 1916-1917.

No protestants against the temporary abandonment of service appeared at the hearing.

In view of the extremely light traffic during the winter months and the further fact that there are no permanent residents dependent upon the maintenance of regular service, we are of the opinion that the application should be granted.

**ORDER.**

Bay Shore Railroad Company, a corporation, having made application to this commission for authority to temporarily discontinue operation until June 1, 1918, and a public hearing having been held and the commission being fully advised in the premises,

*It is hereby ordered* that this application be and the same hereby is granted.

Dated at San Francisco, California, this seventh day of November, 1917.

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DECISION No. 4817.

IN THE MATTER OF THE APPLICATION OF GOLDEN STATE AUTO TOUR CORPORATION FOR CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY TO OPERATE STAGE SERVICE BETWEEN BANNING AND LOS ANGELES.

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Application No. 3211.

*Decided November 7, 1917.*

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Applicant applies for permission to operate an auto bus for passenger traffic from San Bernardino to Banning, stopping at intermediate points, and an investigation showing that the territory in question is at present being adequately served by existing auto transportation companies and by steam and electric railroads, petition denied.

*Riddle & Cheroske, and Lee Riddle, for Applicant.*

*D. W. Pontius, O. A. Smith and R. C. Gortner, for Pacific Electric Railway Company.*

*D. I. Stewart, Protestant.*

*Clyde Slamal, Protestant.*

*G. E. Mills, for A. R. G. Bus Company, Protestant.*

BY THE COMMISSION.

**OPINION.**

Golden State Auto Tour Corporation asks the Railroad Commission to make its order declaring that public convenience and necessity require the operation by petitioner of an automobile stage service for the carriage of passengers between Banning and Los Angeles and intermediate points.

A public hearing herein was held by Examiner Westover at Los Angeles on October 2, 1917.

Petitioner proposes to operate an automobile stage service for the carriage of passengers from San Bernardino to Banning, passing through the towns of Loma Linda, Redlands, Yucaipa and Beaumont, connecting at San Bernardino with the established line of the applicant, Los Angeles to San Bernardino.

The equipment proposed to be used on the route for which certificate is herein applied for is one seven-passenger, 29 horsepower King Eight Touring Car, Model E-E, Motor No. 14896, Serial No. 16110, licensed by State Motor Vehicle Department under No. 17867.

The schedule of fares proposed by applicant was filed as Exhibit "A" with the application in this proceeding.

The time schedule proposed is as follows:

Lv. 2.00 p.m.	Lv. 8.30 a.m.	Banning	Ar. 1.00 p.m.	Ar. 7.00 p.m.
Lv. 2.15 p.m.	Lv. 8.45 a.m.	Beaumont	Ar. 12.45 p.m.	Ar. 6.45 p.m.
Lv. 3.00 p.m.	Lv. 9.30 a.m.	Yucaipa	Ar. 11.50 a.m.	Ar. 5.50 p.m.
Lv. 3.20 p.m.	Lv. 9.50 a.m.	Redlands	Ar. 11.30 a.m.	Ar. 5.30 p.m.
Lv. 3.25 p.m.	Lv. 9.55 a.m.	Redlands Junction	Ar. 11.25 a.m.	Ar. 5.25 p.m.
Lv. 3.35 p.m.	Lv. 10.05 a.m.	Loma Linda	Ar. 11.15 a.m.	Ar. 5.15 p.m.
Lv. 3.50 p.m.	Lv. 10.20 a.m.	San Bernardino	Ar. 11.00 a.m.	Ar. 5.00 p.m.
Ar. 7.00 p.m.	Ar. 1.00 p.m.	Los Angeles	Lv. 8.30 a.m.	Lv. 2.30 p.m.

The applicant has been engaged in the stage service between Los Angeles and San Bernardino for the past one and one-half years, operating four cars over such route and desires to extend service by the addition of one automobile which will serve Yucaipa, Beaumont and Banning; transfer from the Los Angeles-San Bernardino cars to be made at San Bernardino.

Statistics furnished by applicant indicate that during the period from July 15 to October 1, 1917, inclusive, the following number of passengers were carried by the automobile stage line.

Between points on Los Angeles-San Bernardino run to Redlands, 20 one way, 10 round trip; to Yucaipa, 12 one way, 18 round trip; to Beaumont, 17 one way, 4 round trip; to Banning, 44 one way, 12 round trip. Between San Bernardino and Redlands, 24 one way, 2 round trip; Loma Linda, 4 one way; Yucaipa, 7 one way, 2 round trip; Beaumont, 34 one way, 2 round trip; Banning, 92 one way, 13 round trip. Intermediate stations between San Bernardino and Banning, 149 one way, 14 round trip.

The territory between San Bernardino and Banning is served by auto stages of the A. R. G. Bus Company between San Bernardino and Redlands, operating on a half-hourly schedule; by D. I. Stewart between Redlands, Beaumont and Banning, and by Clyde Slamal between Redlands and Yucaipa. None of these lines are operated to carrying capacity and all could handle increased business with their present equipment. The Pacific Electric Railway Company serves the territory between San Bernardino and Redlands with twenty-four daily trains each way and objects to the establishment of competing service between these points. D. I. Stewart, a protestant, operates between Redlands and Banning two round trips daily, connecting with the A. R. G. Bus Line at Redlands. He testified that he has been able to handle all passenger business offering excepting during the fruit picking season. An average of but three passengers per trip are carried between Redlands and Banning.

Clyde Slamal, a protestant, operates three round trips per day between Redlands and Yucaipa and has the contract for carriage of United States mail. He has averaged but three passengers per round

trip between these points and without the compensation received for the carriage of mail would find it difficult to operate at a profit, and could handle more traffic with his present equipment.

The Southern Pacific Company furnishes service of three round trips daily between San Bernardino, Beaumont and Banning via connection with the Pacific Electric from San Bernardino to Riverside.

Applicant in this proceeding presented no evidence as to the public necessity requiring additional service between San Bernardino and intermediate points to Banning, and in view of the fact that the record of passengers handled for a period of two and one-half months shows a daily average of but 5.23 one way passengers and 1 round trip passenger, and that other lines transporting passengers over the same territory have ample facilities and schedules for the convenience of the public, we are of the opinion and find as a fact that the public necessity and convenience do not require the establishment of the service proposed by the applicant.

#### ORDER.

Golden State Auto Tour Corporation having filed herein its petition for an order declaring that public convenience and necessity require the operation by it of an automobile stage service between San Bernardino, Yucaipa, Beaumont and Banning, a public hearing having been held thereon, the matter having been submitted and being now ready for decision, the Railroad Commission hereby finds as a fact that public convenience and necessity do not require the operation by petitioner of an automobile stage service, as requested in the petition herein.

Basing its order on the foregoing finding of fact and on the other findings of fact which are contained in the opinion which precedes this order,

*It is hereby ordered* that the above-entitled application be and the same hereby is denied.

Dated at San Francisco, California, this seventh day of November, 1917.

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#### DECISION No. 4818.

**IN THE MATTER OF THE APPLICATION OF R. E. BRAKEY FOR CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY TO OPERATE STAGE OR TRUCK SERVICE BETWEEN VENTURA AND FILLMORE.**

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Application No. 3277.

*Decided November 7, 1917.*

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**Applicant granted a certificate of public convenience and necessity permitting the operation of an auto bus for the transportation of passengers and express matter between the cities of Ventura and Fillmore.**



*R. E. Brakey, in propria persona.*

BY THE COMMISSION.

### OPINION.

R. E. Brakey applies for certificate that public convenience and necessity require him to operate an automobile passenger stage service between Ventura and Fillmore, a distance of about 26 miles, in Ventura County.

A public hearing in the matter was held by Examiner Westover at Ventura.

Applicant's proposed tariffs and schedule are as follows:

#### *One Way Fares.*

Miles	Between stations	Ventura	Santa Paula
0	Ventura -----		
16	Santa Paula -----	\$0 75	
26	Fillmore -----	1 00	\$0 50

Packages and excess baggage will be carried at rate of three cents per pound; minimum charge 25 cents. No package or shipment weighing over 40 pounds will be handled by passenger auto.

#### *Daily Time Schedule.*

Read down		Stations	Read up	
Lv. 2.00 p.m.	Lv. 8.00 a.m.	Ventura	Ar. 10.45 a.m.	Ar. 4.45 p.m.
Lv. 2.45 p.m.	Lv. 8.45 a.m.	Santa Paula	Ar. 10.00 a.m.	Ar. 4.00 p.m.
Ar. 3.10 p.m.	Ar. 9.10 a.m.	Fillmore	Lv. 9.30 a.m.	Lv. 3.30 p.m.

Southern Pacific Company operates two passenger trains each way daily between Ventura and Fillmore via Montalvo. Jess Beemer operates an automobile stage line between Fillmore and Oxnard via Santa Paula and Saticoy, the latter town being about one mile south of Mr. Brakey's route but not served by him. Mr. Beemer began operating prior to May 1, 1917. Schedules of the Southern Pacific Company and Mr. Beemer are shown below. Applicant's morning trip conflicts with Southern Pacific schedule. Making this round trip an hour and a half later would better serve the public.

#### *Southern Pacific Company.*

Read down		Stations	Read up	
Lv. 8.05 a.m.	Lv. 3.20 p.m.	Ventura	Ar. 11.30 a.m.	Ar. 8.40 p.m.
		Montalvo	Lv. 11.20 a.m.	
Lv. 8.15 a.m.	Lv. 3.30 p.m.	Montalvo	Ar. 10.05 a.m.	Ar. 8.20 p.m.
Lv. 8.53 a.m.	Lv. 4.03 p.m.	Santa Paula	Ar. 9.33 a.m.	Ar. 7.53 p.m.
Ar. 9.15 a.m.	Ar. 4.25 p.m.	Fillmore	Lv. 9.15 a.m.	Lv. 7.35 p.m.

#### *Jess G. Beemer Auto Stage.*

Read down		Stations	Read up	
		Fillmore	Ar. 12.00 m.	Ar. 6.45 p.m.
Lv. 7.40 a.m.	Lv. 1.20 p.m.	Santa Paula	Ar. 11.45 a.m.	Ar. 6.15 p.m.
Lv. 8.15 a.m.	Lv. 1.45 p.m.	Saticoy	Ar. 11.00 a.m.	Ar. 5.40 p.m.
Lv. 8.30 a.m.	Lv. 2.00 p.m.	El Rio	Ar. 10.40 a.m.	Ar. 5.25 p.m.
Ar. 8.45 a.m.	Ar. 2.20 p.m.	Oxnard	Lv. 10.30 a.m.	Lv. 5.15 p.m.

Apparently there is an error in Mr. Beemer's schedule as filed with the commission, in that it does not show the time of leaving Fillmore.

Applicant operated between Ventura and Fillmore for about a month two round trips per day but not upon a fixed schedule, until he learned that he had no legal right to operate, upon which he stopped. During the time he operated, his gross receipts averaged \$5.00 to \$6.00 per day though he did no advertising. His patrons were largely traveling salesmen who by means of stage service could visit more towns in a day than when depending upon trains only. His average cost of operation he estimates was about \$4.00 per day including depreciation of 25 per cent per year.

#### ORDER.

R. E. Brakey having filed herein a petition asking that the Railroad Commission declare that public convenience and necessity require the operation by said Brakey of one automobile as a common carrier of passengers and express packages between Ventura and Fillmore, both in Ventura County, and a public hearing having been held thereon and the matter having been submitted and being now ready for decision, the Railroad Commission hereby finds as a fact that public convenience and necessity require the operation by R. E. Brakey of one automobile as a common carrier of passengers and express packages between Ventura and Fillmore, on the conditions specified.

Basing its order on the foregoing finding of fact and on the other findings of fact contained in the opinion which precedes this order,

The Railroad Commission hereby declares that public convenience and necessity require the operation by R. E. Brakey of one automobile as a common carrier of passengers and express packages between Ventura and Fillmore, provided that this declaration shall not become effective until said Brakey has procured from the Railroad Commission a supplemental order herein reciting that said R. E. Brakey has filed herein certified copies of permits from the county of Ventura and the cities of Ventura, Santa Paula and Fillmore, as provided by section 3 of chapter 213, laws of 1917, and also has filed time schedule satisfactory to the commission; and provided, further, that the rights and privileges herein granted shall not be assigned or transferred unless the written consent of the Railroad Commission to such assignment or transfer has first been procured.

Dated at San Francisco, California, this seventh day of November, 1917.

## DECISION No. 4819.

IN THE MATTER OF THE APPLICATION OF C. H. L. GHRIEST, JR., FOR  
AN ORDER AUTHORIZING THE EXECUTION OF A TRUST DEED AND  
NOTE.

Application No. 3274.

*Decided November 7, 1917.*

Applicant authorized to issue a one-year note in the sum of \$1,000.00, to be secured by mortgage of its properties, the proceeds thereof to be used partly for betterments to plant and partly to discharge balance due on outstanding note together with interest thereon. The use of portion of proceeds of note to pay interest permitted on grounds that applicant has invested earnings in plant which have not been capitalized.

*C. H. L. Ghriest, Jr., in propria persona.*

BY THE COMMISSION.

## OPINION.

C. H. L. Ghriest, Jr., doing business under the fictitious name of The Light and Power Utility and engaged in distributing electric energy at Banning, Riverside County, asks authority to issue a one-year 8 per cent note for the principal sum of \$1,000.00 and to execute a deed of trust to secure the payment of the note.

A public hearing was held in this matter by Examiner Westover.

Applicant desires to use the proceeds of the note for the following purposes:

To pay balance due on the \$600.00 note issued to The Sierra Construction Company -----	\$450 00
To pay interest on said note-----	5 61
To complete office building-----	200 00
For line extension -----	344 39
Total -----	<u>\$1,000 00</u>

Applicant is engaged in constructing a \$1,000.00 office building and proposes to construct a 2,250-foot extension at an estimated cost of \$400.00.

The testimony shows that a large part of the earnings of this utility have been expended for capital purposes and that it is proper in view of such expenditures to permit the utility to use part of the proceeds of the note to pay interest.

For a description of applicant's plant and the cost thereof, reference is here made to Decision No. 2441, dated June 4, 1915 (Vol. 7, Opinions and Orders of the Railroad Commission of California, p. 7), and Decision No. 3463, dated June 27, 1916 (Vol. 10, Opinions and Orders of the Railroad Commission of California, p. 480).

Attached to the application is a copy of the proposed deed of trust to be executed to the Riverside Abstract Company, trustee, to secure

the payment of the \$1,000.00 note to be issued to the First National Bank of Banning. The deed of trust covers all of applicant's properties used in the operation of its lighting system in the city of Banning, Riverside County.

### ORDER.

C. H. L. Ghriest, Jr., having applied to the Railroad Commission for authority to issue a one-year 8 per cent \$1,000.00 note and execute a deed of trust, and a public hearing having been held and it appearing that the money to be procured by the issue of said note is reasonably required for the purposes specified in the order, and that such purposes are not in whole or in part reasonably chargeable to operating expenses or to income,

*It is hereby ordered* that C. H. L. Ghriest, Jr., engaged in an electric distributing business under the fictitious name of The Light and Power Utility be and he is hereby authorized to issue a one-year 8 per cent note for the principal sum of \$1,000.00 and to execute a deed of trust substantially in the same form as the deed of trust attached to the petition herein.

The authority herein granted is granted upon the following conditions and not otherwise:

1. The note herein authorized to be issued shall be issued for not less than the face value thereof.

2. The proceeds of the note herein authorized to be issued shall be used for the following purposes:

(a) To pay balance due on The Sierra Construction Company note together with interest thereon-----	\$455 61
(b) To complete office building, about-----	200 00
(c) To pay for line extension, about-----	344 39

Total -----	\$1,000 00
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3. The approval herein given of said deed of trust is for the purpose of this proceeding only and is an approval only in so far as this commission has jurisdiction under the terms of the Public Utilities Act, and is not intended as an approval of said deed of trust as to such other legal requirements to which said deed of trust may be subject.

4. Applicant shall keep separate, true and accurate accounts showing the receipt and application in detail of the proceeds of the notes herein authorized to be issued and on or before the twenty-fifth day of each month applicant shall make verified reports to the commission stating the disposition of the note herein authorized to be issued and of the proceeds thereof, and in this and all other respects applicant shall comply fully with this commission's General Order No. 24, which order, in so far as applicable, is made a part of this order.

5. The authority herein granted is conditioned upon the payment by applicant of the fee prescribed in the Public Utilities Act.

6. The authority herein granted to issue said note and execute said deed of trust shall apply only to such note as may be issued and such deed of trust as may be executed on or before December 15, 1917.

Dated at San Francisco, California, this seventh day of November, 1917.

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DECISION No. 4820.

GEORGE A. WEBSTER

*vs.*

THE ATCHISON, TOPEKA AND SANTA FE RAILWAY COMPANY.

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Case No. 1133.

*Decided November 7, 1917.*

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The fact that a shipment was originally intended for a point beyond its temporary destination does not relieve the shipper of the burden of making prompt disposition of his cars when notified by carrier that the diversion was impossible of performance.

A tariff rule limiting reconsignment at the through rate to a period of 96 hours after the first 7.00 a.m. of day following arrival of car at destination is reasonable and when cars are not moved within such period local rates should apply.

Petition of complainant that carrier be compelled to accept the through rate of 49 cents per 100 lbs. on shipment of potatoes Stockton to Los Angeles to Needles, instead of the assessed rate of 25 cents Stockton to Los Angeles and 39 cents Los Angeles to Needles, dismissed.

*Roy R. Waterbury and Alfred A. Cohen, for Complainant.*

*G. H. Baker and Platt Kent, for Defendant.*

BY THE COMMISSION.

**OPINION.**

Complainant is an individual engaged in the produce business at San Francisco. By complaint filed August 11, 1917, he alleges that the combination rate of 64 cents per 100 pounds charged by defendant for the transportation of two carloads of potatoes in February, 1916, from Stockton to Needles was unreasonable to the extent that it exceeded a through rate of 49 cents per 100 pounds.

The shipments were offered at Stockton, January 20, 1916, billed to complainant at San Diego. At this time, because of flood in southern California which had washed out a portion of defendant's line between Los Angeles and San Diego, an embargo had been placed against the traffic and complainant's agent at Stockton was advised of the situation and that cars could not be accepted for San Diego. On January 21 the shipments were again offered with Los Angeles as the destina-

tion instead of San Diego. The cars reached Los Angeles January 25 and on January 27 were, by order of the complainant, through his San Francisco office, diverted to San Diego. On the same day (January 27), the Los Angeles agent of defendant wired that the diversion to San Diego could not be accepted on account of the embargo being still in effect. This information was conveyed to complainant at San Francisco and the consignments were thereupon ordered held at Los Angeles.

On February 5 cars were ordered diverted to Needles and reached that point February 7, or 18 days after having been loaded at Stockton.

The rate on potatoes, carloads, from Stockton to Los Angeles is 25 cents per 100 pounds and from Los Angeles to Needles 39 cents per 100 pounds as per defendant's tariffs 11992, Cal. R. C. 323 and 9885-B, Cal. R. C. 322, or a total rate of 64 cents, which complainant has refused to pay. The through rate between the same points is 49 cents per 100 pounds as per defendant's tariff 9885-B, Cal. R. C. 322.

The rules and regulations relating to reconsignment and change of destination of carload freight, are published in defendant's tariff No. 8117-E, Cal. R. C. 305, Item No. 765 and contain the following pertinent provisions:

"(B) For each diversion or reconsignment (change in destination including change in consignee, if desired), filed with carrier's agent before car arrives at first destination, or within 96 hours (exclusive of Sundays and holidays), after 7.00 a. m. of day following arrival of car at first destination, a charge of \$2.00 per car will be made and through rate from point of origin to final destination will apply; but if instructions to change destination are not filed within the time specified herein, freight charges will be based on rate from originating point to first destination, plus rate from such point to final destination, in which case no charge for diversion will be made, except as provided in paragraphs (C) and (D)."

Cars were held in Los Angeles a total of twelve days, January 25 to February 5, and this delay complainant alleges was due to insufficient and uncertain information as to what action would be taken on the diversion order of January 27.

Defendant denies that the cars were entitled to treatment as having been diverted at their billed destination, Los Angeles, within the rules of the tariff and it maintains that during the entire delay to the shipments efforts were made to secure disposition and, as an exhibit, presented some fifteen telegrams passing between its San Francisco and Los Angeles offices. The first of these messages is dated January 27 and the last February 5 and they illustrate in chronological order the actions taken. Reference to several of these documents is relevant.

Under date of January 27, 1916, there is a telegram from Los Angeles reading:

“Cannot accept any diversions now to San Diego either with or without release from delay until embargo actually lifted and open line now very remote.”

On January 29 another wire from Los Angeles again refusing to accept diversion to San Diego. On January 31 messages were exchanged with reference to the demurrage charges accruing at Los Angeles. Under date of February 4 Los Angeles agent sent the following wire:

“Both Webster cars still on track. Understand Morgan trying to dispose, but nothing done yet, advise if any other disposition.”

The Mr. Morgan mentioned in this telegram was a local representative of complainant.

Cars were diverted to Needles February 5 after notification from Los Angeles that the diversion could only be made upon a combination of the local rates.

A witness for defendant testified that the contents of all telegrams was promptly telephoned the San Francisco office of complainant, that the situation was explained and a continuous effort made to secure disposal of the potatoes. This testimony is confirmed by notations on the telegrams showing telephone number, date and hour of conversation.

Complainant's sales blanks, submitted in evidence show that the potatoes were actually sold to firms at San Diego, and pencil notations on the blanks give a partial record of the efforts made by defendant to secure disposition of the consignments.

The fact that the shipments in controversy were from the first intended to move beyond Los Angeles would not alter their status after they arrived at that point and even if the order to make diversion to San Diego had been placed prior to time cars arrived at Los Angeles, a notification from carrier that the diversion was impossible of performance and therefore canceled placed the burden of making prompt disposition of cars upon the complainant.

It would appear that the tariff rule limiting reconsignment at the through rate to a period of 96 hours, after the first 7.00 a. m. of day following arrival of car at destination, exclusive of Sundays and holidays, is not unreasonable.

In the light of the whole record we find that the detention at Los Angeles was not caused by railroad errors. The lawful rate against these shipments from Stockton to Needles is 64 cents per hundred pounds based on local rate of 25 cents per hundred pounds, Stockton to Los Angeles, and 39 cents per hundred pounds, Los Angeles to

Needles, as published in defendant's tariffs No. 11992, C. R. C. No. 323 and No. 9885-B, C. R. C. No. 322 and complainant should pay charges accordingly.

The complaint will be dismissed.

**ORDER.**

A public hearing having been held in the above-entitled proceeding and the proceeding having been submitted and being now ready for a decision, and it appearing for the reasons set forth in the foregoing opinion that the complaint should be dismissed,

*It is hereby ordered* that the complaint in the above entitled proceeding be and the same is hereby dismissed.

Dated at San Francisco, California, this seventh day of November, 1917.

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**DECISION No. 4821.**

IN THE MATTER OF THE APPLICATION OF SOUTHERN CALIFORNIA TELEPHONE COMPANY FOR AN ORDER AUTHORIZING THE ISSUE OF CAPITAL STOCK AND BONDS, THE EXECUTION OF A DEED OF TRUST, THE PURCHASE OF PROPERTY, AND THE OPERATION UNDER VARIOUS FRANCHISES; OF HOME TELEPHONE AND TELEGRAPH COMPANY FOR AN ORDER AUTHORIZING THE SALE OF ITS PROPERTY TO SOUTHERN CALIFORNIA TELEPHONE COMPANY; OF SUNSET TELEPHONE AND TELEGRAPH COMPANY FOR AN ORDER AUTHORIZING THE SALE OF A PORTION OF ITS PROPERTY TO THE PACIFIC TELEPHONE AND TELEGRAPH COMPANY; AND OF THE PACIFIC TELEPHONE AND TELEGRAPH COMPANY FOR AN ORDER AUTHORIZING THE SALE OF A PORTION OF ITS PROPERTY TO SOUTHERN CALIFORNIA TELEPHONE COMPANY AND THE ACQUISITION OF CAPITAL STOCK OF SOUTHERN CALIFORNIA TELEPHONE COMPANY.

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**Application No. 2227.**

*Decided November 7, 1917.*

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Southern California Telephone Company authorized to issue \$737,100.00 par value of its common capital stock to be issued to Pacific company at its full face value covering betterments made to plant, materials and supplies on hand and accounts receivable, provided that stock be issued against accounts receivable only as to such accounts as are actually collected and the proceeds used for such purpose be invested in property or used as working capital.

*Pillsbury, Madison & Sutro*, by *H. D. Pillsbury* and *James T. Shaw*,  
for Applicants.

**THELEN and GORDON, Commissioners.**

**FIRST SUPPLEMENTAL OPINION.**

In the amended supplemental petition in the above-entitled matter, Southern California Telephone Company asks authority to issue \$737,100.00 par value of its common capital stock to The Pacific Tele-



phone and Telegraph Company in exchange for property hereinafter referred to.

The Pacific Telephone and Telegraph Company asks authority to acquire \$737,100.00 par value of common capital stock of Southern California Telephone Company, at par.

By Decision No. 3845 dated November 4, 1916 (Vol. 11, Opinions and Orders of the Railroad Commission of California, p. 806), the Railroad Commission authorized the Home Telephone and Telegraph Company, hereinafter referred to as the "Home company" and The Pacific Telephone and Telegraph Company, hereinafter referred to as the "Pacific company," to sell to the Southern California Telephone Company, hereinafter referred to as the "Southern company," the properties described in Exhibit Nos. 1 and 2 attached to said Decision No. 3845. In exchange for the properties as the same existed on December 31, 1915, the Southern company was authorized to issue stock and bonds in the sum of \$14,000,000.00, the bonds not to exceed \$9,330,000.00. Applicants now report that the Southern company has issued \$8,782,000.00 (less \$4,027,000.00 of bonds reserved to refund outstanding bonds of Home company) of bonds and \$5,218,000.00 par value of capital stock, making a total of \$14,000,000.00.

Condition 6 of the order in Decision No. 3845, dated November 4, 1916, reads as follows:

"Southern California Telephone Company is hereby authorized to issue to Home Telephone and Telegraph Company and to The Pacific Telephone and Telegraph Company in payment for additions and betterments to the property of said companies made between December 31, 1915, and the date of the conveyance by said two companies of their respective properties and the accounts receivable of said two companies on said date of conveyance, such an amount of capital stock and bonds as may be hereafter authorized by the Railroad Commission after complete presentation of the facts, by a supplemental order herein."

The properties of the Home and Pacific companies referred to above were transferred to the Southern company as of May 1, 1917. From December 31, 1915, to May 1, 1917, the Home company reports that it has expended for net additions and betterments the sum of \$277,119.28, and the Pacific company the sum of \$312,617.38, making a total of \$589,736.66. In addition, the Home company on April 30, 1917, reported materials and supplies on hand \$8,697.92, accounts receivable, \$38,940.53; while the Pacific company reported materials and supplies on hand, \$7,620.36, accounts receivable, \$92,173.97, making a grand total of \$147,432.78. To acquire the net additions and betterments since December 31, 1915, the materials and supplies on hand and the accounts receivable, the Southern company proposes to issue \$737,100.00 par value of its common capital stock.

The Southern company has acquired the above-mentioned properties as of May 1, 1917, free and clear of all encumbrances, except the lien of the outstanding bonds of the Home company. The testimony shows that the proceeds of the stock to be issued by the Southern company to acquire accounts receivable of the Home and Pacific companies will be used for working capital or reinvested in property. Of the Home company accounts receivable, from  $1\frac{1}{2}$  to 2 per cent, and of the Pacific company accounts receivable, about one-half per cent are at this time regarded as uncollectible. While it is impossible to definitely determine at present the amount of accounts receivable which are uncollectible, it is obvious that no stock should be issued against accounts which may never be collected by the Southern company and the order will so provide.

The Pacific company reports that it has succeeded to the rights of the Home company for compensation for the net additions and betterments and materials and supplies on hand and accounts receivable of that company.

We herewith submit the following form of order.

#### SECOND SUPPLEMENTAL ORDER.

Southern California Telephone Company having applied to the Railroad Commission for authority to issue \$737,100.00 par value of its common capital stock for purposes indicated in the foregoing opinion, and The Pacific Telephone and Telegraph Company having applied to the Railroad Commission for authority to acquire said stock, and a hearing having been held and the commission being of the opinion that the money, property or labor to be procured or paid for by such issue of stock is reasonably required for the purpose or purposes specified in the order, and that the purposes for which the proceeds are to be expended are not in whole or in part reasonably chargeable to operating expenses or to income,

*It is hereby ordered* that Southern California Telephone Company be and it is hereby granted authority to issue \$737,100.00 par value of its common capital stock, said stock to be issued in exchange for the property set forth in Exhibit "A" and Exhibit "B" attached to the amended supplemental petition in the above-entitled matter, provided that stock be issued only against such accounts receivable as shall be collected by the Southern California Telephone Company, and that the proceeds from such stock as may be issued to acquire accounts receivable be used for working capital or invested in property.

*It is hereby further ordered* that The Pacific Telephone and Telegraph Company be, and it is hereby granted authority to purchase or acquire from Southern California Telephone Company at par \$737,100.00 par value of its common capital stock, or such an amount

thereof as may be issued pursuant to the authority granted by this order.

The authority hereby granted is granted upon the following conditions and not otherwise:

1. Southern California Telephone Company shall keep separate, true and accurate accounts showing the receipt and application in detail of the proceeds of the sale of the stock hereby authorized to be issued, and on or before the twenty-fifth day of each month the company shall make a verified report to the Railroad Commission stating the sale or sales of said stock during the preceding month, the terms and conditions of the sale and the moneys realized therefrom and the use and application of such moneys, all in accordance with the Railroad Commission's General Order No. 24, which order in so far as applicable is made a part of this order.

2. The authority hereby granted shall apply only to such capital stock as may have been issued on or before June 1, 1918.

The foregoing first supplemental opinion and second supplemental order are hereby approved and ordered filed as the first supplemental opinion and second supplemental order of the Railroad Commission of California.

Dated at San Francisco, California, this seventh day of November, 1917.

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DECISION No. 4822.

IN THE MATTER OF THE APPLICATION OF EDGAR S. NYE FOR AUTHORITY TO INCREASE RATES FOR THE SALE OF WATER IN RIVERSIDE PARK, SANTA CRUZ COUNTY, CALIFORNIA.

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Application No. 2917.

*Decided November 7, 1917.*

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Applicant applies for a readjustment of rates for water delivered in Riverside Park, Santa Cruz County, and after valuation of his system the following schedule established, effective November 1, 1917: Annual charge \$6.00 per year, payable in advance with an additional charge for metered service of 75 cents per first 5,000 gallons; for flat service 75 cents per month. Rates also established for fire service and street sprinkling.

BY THE COMMISSION.

**OPINION.**

Applicant herein is engaged in the business of selling water for domestic use to the residents of Riverside Park, which is a small tract adjoining the town of Ben Lomond, Santa Cruz County, California.

Applicant in this proceeding applies for an increase in the rates charged by him for said service upon the ground that the revenue

derived under the present schedule of rates is insufficient to meet maintenance and operating expenses.

A public hearing was held in this matter on September 11, 1917, at Ben Lomond before Examiner Encell.

The property involved in this proceeding was installed by applicant in the summer of 1914 to serve a subdivision of fifteen acres near Ben Lomond which subdivision was subdivided into 100 lots. Upon 14 of these lots summer cottages and houses have been built which are occupied by their owners at intervals varying from continuous residence to five days a year. The rates charged by applicant have been \$1.00 per month, regardless of extent of use or the usual variation of flat rates by the size of houses, fixtures, area irrigated, etc.

Applicant has for sometime past discontinued pumping water for his consumers and has been receiving water from the pipes of the Mountain Water and Light Company, a public utility engaged in business in that vicinity.

At the hearing an appraisal of the property was introduced which represented a total valuation of the same of \$766.00, after due allowance had been made for depreciation. Of this amount, however, the unused pumping plant is now nonoperative and should be deducted. In addition thereto a further deduction should be made owing to the fact that applicant has extended a three-fourth inch pipe, a distance of 1,800 feet for the purpose of serving one consumer.

The present value of the property now used and useful to the utility after making the foregoing deductions is the sum of \$386.00 and annual depreciation, straight line, \$21.42.

The commission's hydraulic engineering department testified that the cost of operation to this utility would reasonably be the sum of \$95.00. This is based on the assumption that the fourteen users will use water on an average of five months each or seventy consumer months; that the use of a consumer month will be 3,000 gallons; that a commercial expense of 50 cents per consumer month be allowed and that applicant purchase annually 210,000 gallons of water at the rates of Mountain Water and Light Company.

Accepting above testimony as bases for the charges, the following are the annual charges for the company:

Interest at 7 per cent on \$386.00-----	\$27 02
Depreciation -----	21 42
Operation and maintenance-----	95 00
<b>Total -----</b>	<b>\$143 44</b>

The Mountain Water and Light Company which is engaged in serving water to the same vicinity has, by this commission, been allowed a rate which provides for an annual charge of \$6.00 per year for each

consumer whether water be used or not and a further charge of 75 cents per month for the first 5,000 gallons or less. The income of the applicant herein, based upon those rates, would be as follows:

14 consumers at \$6.00 annually-----	\$84 00
70 months at 75 cents-----	52 50
Total -----	\$136 50

#### ORDER.

Edgar S. Nye having applied to the Railroad Commission for authority to increase the rates charged by him for water sold by him in Riverside Park, Ben Lomond, Santa Cruz County, California, and a public hearing having been held thereon, the Railroad Commission finds as a fact that the rates now charged by Edgar S. Nye in said district are unjust and unreasonable in so far as they differ from the rates herein established and that the rates herein established are just and reasonable rates to be charged by Edgar S. Nye in said district.

Basing its order on the foregoing finding of fact and on the other findings of fact which are contained in the opinion which precedes this order,

*It is hereby ordered* that Edgar S. Nye be and he is hereby authorized to file with the Railroad Commission, effective November 1, 1917, the following schedule of rates to be charged by said Edgar S. Nye in Riverside Park, Ben Lomond, Santa Cruz County, California.

#### SCHEDULE A (*Meter Rate*).

##### Annual charge.

An annual charge of \$6.00 shall be paid by each consumer whether the service is metered or not, to be paid annually in advance.

##### Metered service.

75 cents for the first 5,000 gallons or less.

15 cents for each 1,000 gallons or fraction thereof for the next 10,000 gallons.

12 cents for each 1,000 gallons or fraction thereof used in excess of 15,000 gallons.

#### SCHEDULE B (*Flat Rates*).

##### Annual charge.

An annual charge of \$6.00 shall be paid in advance, annually by each consumer.

##### Flat rate service.

75 cents per month, pending installation of meters, in addition to annual charge.

#### SCHEDULE C (*Fire Protection*).

An annual charge of \$2.00 shall be paid by each consumer who desires fire protection, to be paid annually in advance.

#### SCHEDULE D (*Annual Contracts*).

Contracts for flat service in lieu of above flat rate service will be made with consumers based on the above rates and estimated according thereto, to be paid in advance, annually, and to be filed with the commission, when requested by the consumer.

**SCHEDULE E** (*Sprinkling*).

For each standard or each water tank used for sprinkling roads and streets the rate shall be for each standard or tank, \$25.00 per annum, to be paid in advance.

*Sprinkling streets from fire hydrants.*

Where water is used for sprinkling streets by consumers other than the county, the charge shall be 50 cents per month for each consumer, during the months in which water is used for said purpose.

Dated at San Francisco, California, this seventh day of November, 1917.

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DECISION No. 4823.

IN THE MATTER OF THE APPLICATION OF TULARE HOME TELEPHONE AND TELEGRAPH COMPANY FOR AN ORDER AUTHORIZING THE ISSUE OF BONDS.

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Application No. 2951.

*Decided November 8, 1917.*

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BY THE COMMISSION.

**FIRST SUPPLEMENTAL ORDER.**

Whereas the Railroad Commission in Decision No. 4601, dated August 30, 1917, authorized Tulare Home Telephone and Telegraph Company to issue \$15,000.00 face value of bonds at not less than 93 per cent of their face value plus accrued interest in cash upon the condition, among others, that none of said bonds shall be issued until the commission has made its order authorizing applicant to execute a deed of trust to secure the payment of said bonds; and

Whereas Tulare Home Telephone and Telegraph Company on October 23, 1917, filed with the Railroad Commission a proposed form of mortgage or deed of trust to be executed to the Bank and Trust Company of Central California, trustee, to secure the payment of \$25,000.00 face value of first mortgage 6 per cent sinking fund gold bonds, dated November 1, 1917, said proposed mortgage or deed of trust, among other things, providing that the bonds shall be issued in denominations of \$100.00 each; that Series "A" bonds, consisting of \$15,000.00, are to mature at the rate of \$500.00 per annum from November 1, 1919, to November 1, 1926, both years inclusive, and at the rate of \$1,000.00 per annum from November 1, 1927, to November 1, 1931, both years inclusive; that Series "B" bonds consisting of \$10,000.00 are to mature November 1, 1937; that the company shall pay certain specified amounts to the trustee for sinking fund purposes; that the bonds may be redeemed prior to their maturity at 105, and that the lien of the mortgage shall extend to all of the

properties of the company now owned or hereafter acquired; and good cause appearing,

*It is hereby ordered* that Tulare Home Telephone and Telegraph company be and it is hereby authorized to execute a mortgage or deed of trust substantially in the same form as the mortgage or deed of trust filed with the Railroad Commission on October 23, 1917, and marked "Exhibit A" in connection with the application herein.

The approval herein given of said mortgage or deed of trust is for the purpose of this proceeding only and is an approval in so far as this commission has jurisdiction under the terms of the Public Utilities Act and is not intended as an approval of said mortgage or deed of trust as to such other legal requirements to which said mortgage or deed of trust may be subject.

Dated at San Francisco, California, this eighth day of November, 1917.

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DECISION No. 4824.

IN THE MATTER OF THE APPLICATION OF THE SAN DIEGO AND SOUTHEASTERN RAILWAY COMPANY FOR AN ORDER DECLARING THAT PUBLIC CONVENIENCE AND NECESSITY REQUIRE THE OPERATION OF PASSENGER, AUTOMOBILE AND FREIGHT TRUCKS FOR THE TRANSPORTATION OF PASSENGERS AND PROPERTY BETWEEN LAKESIDE, RAMONA AND JULIAN AND INTERMEDIATE POINTS.

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Application No. 3258.

*Decided November 8, 1917.*

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Applicant granted a certificate permitting the operation by it of auto busses and trucks for the transportation of freight and passengers between the present terminus of its line of railway at Lakeside and the towns of Ramona, Descanso, Julian and intermediate points, provided that such certificate shall not hereafter be transferred without authorization of this commission.

*R. G. Dilworth*, for Applicant.

*Warren E. Libby*, for Pickwick Stages, Protestant.

BY THE COMMISSION.

OPINION.

San Diego and South Eastern Railway Company asks that the Railroad Commission make its order declaring that public convenience and necessity require the operation by it of various motor busses and trucks as common carriers of persons and property between Lakeside (the present terminus of Eastern division of applicant's rail line) and Julian, located approximately 38 miles northeast from Lakeside.

Applicant has recently purchased all equipment and good will formerly used in the transportation business between Lakeside and Julian via Ramona, of Mr. J. F. Bailey and F. L. Blanc Truck Company, and proposes to operate auto busses and trucks to and from Julian via both Ramona and Descanso making connection at Lakeside with its rail line to San Diego and intermediate points.

Equipment proposed to be operated in this service consists of the following:

Number	Make	Capacity	H. P.
1	Buick	7 passenger	55
1	Federal truck	3½ ton	40
1	Federal truck	2 ton	30
2	Auto Car trucks	2 ton each	--
1	Alco truck	1 ton	--
1	Kissel truck	2½ ton	--
1	Kissel truck	1 ton	24
1	Denby	2½ ton	25

and such other vehicles as business may require.

The proposed time schedule for passenger busses as set forth in the application shows a connection at Lakeside with two trains daily in each direction to and from Julian and four trains daily in each direction to and from Ramona.

The passenger fares and freight rates proposed to be charged between the points to be served by the auto stages and trucks, also the passenger fares and freight rates proposed to be charged between points served by auto stages and trucks and points located on applicant's rail line west of Lakeside including San Diego, are fully set forth in applicant's Exhibit No. 2 in this proceeding.

As provided by section 3 of chapter 213, statutes 1917, applicant has secured the necessary permit from the board of supervisors of San Diego County and copy of same is attached to and made a part of the application.

The Blanc Truck Company taken over by applicant was operating in good faith between Julian and San Diego and intermediate points prior to May 1, 1917, and tariffs of said company are on file with this commission.

Witnesses for the applicant testified that the lack of reliable and adequate service and the necessary facilities to properly transport persons and property to and from San Diego, Ramona, Julian and intermediate points has for many years been a detriment to the development of these communities and the country contiguous thereto and that many requests have been made to it for the establishment of reliable transportation facilities.



**ORDER.**

San Diego and South Eastern Railway Company having filed an application requesting the Railroad Commission to make its order declaring that public convenience and necessity require the operation by it, of various motor busses and trucks between Lakeside, Ramona, Descanso, Julian and intermediate points, a public hearing having been held, the matter having been submitted and being ready for decision,

The Railroad Commission of the state of California hereby declares that public convenience and necessity require the operation by the San Diego and South Eastern Railway Company of the various motor busses and trucks hereinbefore referred to as common carriers of persons and property between Lakeside, Ramona, Descanso, Julian and intermediate points; provided, that the rights and privileges herein granted shall not be transferred or assigned unless the Railroad Commission's written consent to such assignment or transfer shall first have been secured.

Dated at San Francisco, California, this eighth day of November, 1917.

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Decision No. 4825, grade crossing; not printed. See end of volume.

**DECISION No. 4826.**

IN THE MATTER OF THE APPLICATION OF PACIFIC GAS AND ELECTRIC COMPANY FOR AN ORDER OF THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA AUTHORIZING APPLICANT TO INCREASE ITS RATES AND CHARGES FOR GAS FURNISHED TO CONSUMERS IN THE CITY OF SAN JOSE AND IN THE TERRITORY ADJACENT THERETO.

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Application No. 3175.

*Decided November 9, 1917.*

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BY THE COMMISSION.

**ORDER OF DISMISSAL.**

Request in writing having been made therefor by Pacific Gas and Electric Company, Application No. 3175 is hereby dismissed.

Dated at San Francisco, California, this ninth day of November, 1917.

## DECISION No. 4827.

IN THE MATTER OF THE APPLICATION OF SOUTHERN CALIFORNIA EDISON COMPANY TO PURCHASE CERTAIN PREFERRED STOCK AND COMMON CAPITAL STOCK OF VENTURA COUNTY POWER COMPANY AND TO ACQUIRE THE BUSINESS, FRANCHISES AND PROPERTY AS A WHOLE OF VENTURA COUNTY POWER COMPANY AND THE APPLICATION OF VENTURA COUNTY POWER COMPANY TO SELL AND CONVEY ITS BUSINESS, FRANCHISES AND PROPERTY AS A WHOLE TO SOUTHERN CALIFORNIA EDISON COMPANY.

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Application No. 3152.

*Decided November 9, 1917.*

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BY THE COMMISSION.

**FIRST SUPPLEMENTAL ORDER.**

*It is hereby declared* that in accordance with the order heretofore made in this proceeding on October 31, 1917, Southern California Edison Company has filed a stipulation in which it agrees that neither itself, its successors nor assigns shall ever claim before the Railroad Commission or before any court or other public body a value for the franchises or any thereof authorized by the order heretofore made on October 31, 1917, to be conveyed by Ventura County Power Company to Southern California Edison Company, any sum in excess of the cost of such franchises or any thereof to the original grantee or grantees thereof, which original cost is stated to be six hundred and seventy dollars (\$670.00).

Dated at San Francisco, California, this ninth day of November, 1917.

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DECISION No. 4828.

IN THE MATTER OF THE APPLICATION OF F. A. WILSON AND G. G. VICKERSON FOR PERMISSION TO TRANSFER TO MARIN MUNICIPAL WATER DISTRICT CERTAIN DISTRIBUTING SYSTEMS AT THE TOWN OF CORTE MADERA.

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Application No. 3306.

*Decided November 9, 1917.*

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BY THE COMMISSION.

**ORDER.**

F. A. Wilson and G. G. Vickerson, having applied to this commission for authority to transfer to the Marin Municipal Water District a certain public utility water system situated in that portion of the

town of Corte Madera in Marin County, California, described as follows, to wit:

All that portion of the town of Corte Madera lying easterly of a line drawn through the center of the tunnel and right of way of the Northwestern Pacific Railroad Company from the southerly town limits to the southerly line of First street; thence westerly on the southerly line of First street to the westerly side of the state highway opposite the end of First street; thence northwesterly along the westerly line of the state highway to the town limits, and thence easterly along the town limits to their intersection with the right of way of the Northwestern Pacific Railroad, and thence northerly along said town limits and along the westerly line of the right of way of the Northwestern Pacific Railroad to the most northwesterly corner of the town of Corte Madera;

transfer to be made in accordance with the forms of conveyance attached to the application in this proceeding and marked Exhibits "A," "B" and "C;" and it appearing to the commission that this is not a case in which a public hearing is necessary and that the application should be granted,

*It is hereby ordered* that this application be and the same hereby is granted; provided, that the authority herein granted to transfer public utility property shall apply only to such transfer as is made on or before December 31, 1917; and provided, further, that within ten days after any conveyance is made under the authority of this order, a certified copy of such conveyance shall be filed with the Railroad Commission.

Dated at San Francisco, California, this ninth day of November, 1917.

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DECISION No. 4829.

IN THE MATTER OF THE APPLICATION OF J. S. CATTRON FOR  
CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY TO  
OPERATE AUTOMOBILE PASSENGER AND PACKAGE TRANSPORTATION  
BETWEEN ONTARIO AND CORONA VIA CHINO.

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Application No. 3284.

*Decided November 9, 1917.*

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BY THE COMMISSION.

**ORDER OF DISMISSAL.**

Applicant having on November 5, 1917, made written request that the application in this proceeding be dismissed,

*It is hereby ordered* that the application in this proceeding be and the same hereby is dismissed.

Dated at San Francisco, California, this ninth day of November, 1917.

## DECISION No. 4830.

IN THE MATTER OF THE APPLICATION OF THE GREAT WESTERN POWER COMPANY FOR A CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY FOR THE EXERCISE OF A CERTAIN FRANCHISE GRANTED BY THE COUNTY OF PLUMAS, AND FOR A CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY FOR THE CONSTRUCTION OF ELECTRIC TRANSMISSION AND DISTRIBUTION LINES IN SAID COUNTY OF PLUMAS.

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Application No. 2865.

*Decided November 9, 1917.*

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BY THE COMMISSION.

**SUPPLEMENTAL ORDER.**

Whereas this commission issued its Decision No. 4481 in the above entitled proceeding on the twenty-third day of July, 1917, reserving certain territory to be served by the Plumas Light and Power Company; and

Whereas subsequent to the issuance of said opinion and order the Plumas Light and Power Company has neglected and failed to serve the town of Taylorsville located therein, upon application for service by residents of said town; and

Whereas Plumas Light and Power Company has advised the commission, under date of October 30, that it is not able to serve the town of Taylorsville; and

Whereas it appears that Plumas Light and Power Company is unable to serve a considerable portion of the territory heretofore reserved to it,

*It is hereby ordered* that the territory heretofore reserved to the Plumas company be and the same is hereby modified to include the following-described territory only:

All of Twp. 25 N., R. 9 E.; all of Twp. 26 N., R. 9 E.; all of that portion of Twp. 27 N., R. 9 E., lying within the county of Plumas, and also sections 5, 6, 7, 8, 17, 18, 19, 20, 29, 30, 31 and 32 of Twp. 26, N., R. 10 E., and the south half of section 17 and all of sections 19, 20, 29, 30, 31 and 32 of Twp. 27 N., R. 10 E., M. D. B. & M.

The Railroad Commission hereby declares that present and future public convenience and necessity require and will require the exercise by Great Western Power Company of all the rights and privileges granted it by Ordinance No. 182 of the county of Plumas, and the construction, operation and maintenance of distribution lines and facilities to serve and supply electric energy to all classes of consumers in that portion of Plumas county designated as:

Twp. 25 N., R. 10 and 11 E.; Twp. 26 N., R. 11 E.; that portion of Twp. 26 N., R. 10 E., and Twp. 27 N., R. 10 E. in Plumas County not herein reserved to the Plumas Light and Power Company;

provided, Great Western Power Company shall, within twenty days from the effective date of this order, file with the Railroad Commission of the state of California a stipulation to the effect that it will proceed at once to serve the town of Taylorsville and that it will supply all reasonable demands for electric service within said territory.

Dated at San Francisco, California, this ninth day of November, 1917.

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DECISION No. 4831.

CITY OF WHITTIER

*vs.*

SOUTHERN COUNTIES GAS COMPANY OF CALIFORNIA.

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Case No. 1049.

*Decided November 9, 1917.*

In establishing values for a gas system distributing natural gas the generators and accessories constructed and operated in good faith though not used at the present time but which it is necessary to retain as an insurance of service will be allowed.

When a utility voluntarily puts into effect a lower schedule of rates in several communities than it establishes in another community the commission can only assume that it is earning a fair return on the lower schedule voluntarily established or that it is willing to operate at a lower rate of return in other municipalities than it desires the commission to establish in the municipality where its rates are under investigation.

Rates for gas in the city of Whittier held to be discriminatory and revised schedule established to become effective November 25, 1917: Domestic service, first 2,000 cubic feet, \$1.10 per 1,000, ranging to 30 cents per 1,000 cubic feet for amounts over 50,000 cubic feet per meter per month, minimum bill \$1.00 per meter per month.

*Jeff G. Wingert*, city attorney, for Complainant,  
*Hunsaker & Britt* and *LeRoy M. Edwards*, for Defendant.

BY THE COMMISSION.

OPINION.

The complaint in the above-entitled matter alleges that defendant's rate of \$1.20 per thousand cubic feet for natural gas served to the inhabitants of Whittier is in excess of a just and equitable rate and prays that the commission fix a just rate.

Defendant in its answer alleges that its rates are as shown in Table No. I below; denies that it charges a rate of \$1.20, except as shown;

alleges that its rates are fair, just and equitable, and that a lower rate would not enable it to earn a fair return upon its investment and requests that the complaint be dismissed. A public hearing of the case was conducted by Examiner Westover at Whittier.

The principal theory of complainant's case, as presented, was that defendant was making lower rates for natural gas in other territory than in Whittier, and that it had agreed to reduce its rates to a basic rate of \$1.10 net per thousand cubic feet on July 1, 1917. Particular reference was made to the rates in Orange, Santa Ana, Anaheim and Fullerton, Orange County, where the highest rate is 75 cents per 1,000 cubic feet and in Pomona where the top rate is \$1.10 per 1,000 cubic feet, as compared with \$1.20 per 1,000 cubic feet in Whittier. The testimony of defendant was to the effect that soon after natural gas was introduced into Whittier it promised to later make a reduction in rates, provided the first year's operation showed that such a reduction was justified. In February, 1917, Southern Counties Gas Company definitely offered to put into effect on July 1, 1917, rates which would result in a material reduction from the present rates, provided gas bills were paid within fifteen days of presentation, and upon condition that the agitation for lower gas rates be dropped by the chamber of commerce. The offer, however, was not accepted.

We will first consider and discuss rates for Whittier without particular regard to any previous discussion between the parties as to what rate should be established there, and without regard to rates established in other territory, and thereafter consider the question of discrimination between districts and cities.

Defendant was incorporated February 23, 1911, and subsequently acquired by purchase a number of artificial gas plants and properties in Los Angeles and Orange counties, including the production and distribution plant serving Whittier, and which it has since operated. Since acquiring these various systems defendant has, from time to time, extended natural gas transmission lines to the several systems and is now serving natural gas to its customers in place of artificial gas.

In the latter part of 1915 defendant arranged, at the earnest solicitation of the chamber of commerce of Whittier, to bring in natural gas from the Coyote Hills field, and for that purpose later laid a four-inch transmission main about fourteen miles long to Whittier. Service of natural gas in Whittier was commenced about February 1, 1916.

The ordinance rate for artificial gas which defendant found in effect in Whittier when it purchased the system on April 1, 1911, from Southern California Edison Company, and defendant's new monthly rates for natural gas for domestic and industrial use are shown in the following table:

TABLE No. I.  
*Gas Rate Schedules.*

## WHITTIER.

- (1) Artificial gas rate effective April 22, 1912 (Ordinance Rate) :  
 Up to 8,300 cubic feet per month, \$1.20 per 1,000 cubic feet.  
 Between 8,300 and 10,000 cubic feet per month, \$10.00 for entire consumption.  
 All over 10,000 cubic feet per month, \$1.00 per 1,000 cubic feet.  
 Minimum bill, \$1.00 per month per meter.
- (2) General domestic and commercial rate for natural gas :  
 First 2,000 cubic feet per month, \$1.20 per 1,000 cubic feet.  
 Next 3,000 cubic feet per month, 1.10 per 1,000 cubic feet.  
 Next 10,000 cubic feet per month, .80 per 1,000 cubic feet.  
 Next 15,000 cubic feet per month, .60 per 1,000 cubic feet.  
 Next 20,000 cubic feet per month, .40 per 1,000 cubic feet.  
 Over 50,000 cubic feet per month, .30 per 1,000 cubic feet.  
 Minimum bill, \$1.00 per meter per month.
- (3) Special off peak industrial rate :<sup>\*</sup>  
 First 2,000 cubic feet per month, \$1.20 per 1,000 cubic feet.  
 Next 3,000 cubic feet per month, 1.10 per 1,000 cubic feet.  
 Next 5,000 cubic feet per month, .50 per 1,000 cubic feet.  
 Next 10,000 cubic feet per month, .40 per 1,000 cubic feet.  
 Over 20,000 cubic feet per month, .20 per 1,000 cubic feet.  
 Minimum charge, \$1.00 per month.

In addition to schedules shown in Table No. I there is an industrial rate schedule for gas engine service varying from 30 cents per 1,000 cubic feet for the first 200,000 to 20 cents per 1,000 cubic feet for all over 500,000 cubic feet.

The natural gas now served in Whittier contains practically twice the heating value of the manufactured gas previously served. The natural gas contains in excess of 1,100 British thermal units per cubic foot and the manufactured approximately 575 units. This is equal to a reduction of approximately 40 per cent in the artificial gas rate where the natural gas product is served at the same price per 1,000 cubic feet. The result of the introduction of natural gas into Whittier was a reduction in sales from 1,930 cubic feet per consumer in March, 1915, to 1,030 cubic feet per consumer in March, 1916. Revenue was reduced approximately 40 per cent without an equal reduction in expense.

Following the introduction of natural gas defendant at once began a very vigorous campaign to increase the consumption of gas. The result of this campaign is shown in the increase in revenue in Whittier under the same rates from \$1,931.95 in July, 1916, to \$3,115.90 in June, 1917. The domestic and commercial sales increased to approximately 2,170 cubic feet for month of March, 1917, due largely to increased use of gas for heating and other purposes for which artificial gas was not used, and to the fact that March, 1917, was cooler than usual in Whittier. Defendant estimates that as a result of its house to house canvass, it now sup-

<sup>\*</sup>Applicable to service where heavy demand is not coincident with heavy demand hours of domestic consumers. Subject to shut-off on 30 minutes notice.

plies 90 per cent of the possible cooking and lighting business in Whittier. It believes that sale of gas for heating purposes can be still further materially increased.

The defendant submitted an inventory and estimated cost to reproduce new of the Whittier gas properties by W. A. Baehr as of February 1, 1916, used in other matters before the commission, plus cost of net additions and betterments to June 30, 1917. The properties listed in said appraisal include not only property in Whittier but also a pro rata of general capital based upon the relative number of consumers in Whittier. It was necessary to prorate certain of the local capital owing to the fact that service is rendered to consumers outside of the city of Whittier, in the company's Whittier district. The appraisal submitted is summarized as follows:

TABLE No. II.

*Appraisal of Whittier Gas Property by W. A. Baehr, as of February 1, 1916, plus Net Additions and Betterments to June 30, 1917.*

	Per cent chargeable to Whittier	Amount
General capital, including office furniture, automobiles and certain overhead costs.....	4.2	\$1,087 53
Whittier artificial gas plant.....	100.0	41,277 75
Gas transmission line from oil fields.....	97.6	23,044 44
Distribution system—Whittier.....	100.0	85,142 58
Whittier district general capital, including storeroom furniture and fixtures (about 60 per cent of the amount being material and supplies).....	84.9	20,398 09
Working capital (2 months average expense).....	84.9	4,160 10
Organization expense, pro rata.....		1,516 27
<b>Total .....</b>		<b>\$176,626 76</b>

No detailed check of the inventory and valuation was made in connection with this hearing. Mr. L. S. Ready, assistant engineer in the gas and electric department of the commission, stated that from general comparison with other valuations of closely similar properties he considered the amount of \$176,626.76 a reasonable estimated rate base for a system of the size and extent of the Whittier gas system. From a further consideration of the testimony, we consider the estimate reasonable.

The valuation includes the estimated cost of the artificial gas plant and the entire transmission main to Whittier, except for proportion deducted for services direct from the main. Complainant questioned the inclusion of these because, first, the artificial gas plant was not in use, and second, the transmission main has been extended and is being used to supply the districts north of Whittier, including Monrovia, Arcadia and Sierra Madre.

A part of the gas production plant is used in connection with the distribution of natural gas, and only a part, such as generators and acces-



sories, might be considered as not operative. Considering the fact that the artificial plant was constructed and operated in good faith and further that it remains at this time as an insurance of service, it should be retained for the present as used and useful. We, therefore, allow the entire cost of the plant. The pipe line from the oil wells has been extended so that it now transmits gas not only to the Whittier district, but to Monterey Park and vicinity, El Monte and vicinity, and to the Monrovia-Arcadia-Sierra Madre district. The initial investment in the pipe line to bring the gas from the field to Whittier was charged to Whittier district, although the line has been extended beyond Whittier. The subsequent extensions have been charged to the communities to which gas was transmitted. In this instance, however, the line to Whittier will not, in the future, be sufficient to much more than supply the Whittier requirements. A new line is now under consideration which will connect direct to the Monrovia-Arcadia-Sierra Madre district. With the completion of this line the Whittier line, as far as Whittier, will be used almost solely for the service of that city. We have, therefore, not deducted any capital from this account.

Defendant submitted an earning statement for the year ending June 30, 1917, the fifth to seventeenth months of natural gas service, which showed for the 12 months a net earning for interest and depreciation of 7.35 per cent upon the above valuation basis, a rate less than that usually allowed by the commission under similar circumstances. The earnings for interest and depreciation for the first six months of the period were at the rate of approximately 6.1 per cent and for the last six months about 9 per cent. This increase is due in part to the greater normal use during spring months than in fall and to the increase in use of gas recently from the company's development of business. A suitable annual sinking fund to provide for depreciation would amount to about 2.2 per cent upon the above valuation.

TABLE No. III.

*Statement of Earnings in the City of Whittier, Twelve Months, Ending June 30, 1917.***Gross income.**

Gas sales.....	\$35,894.00
Store profits.....	\$58.24
	<hr/> \$36,752.33

**Operating expenses.**

Production .....	\$6,349.04
Transmission .....	556.68
Distribution .....	6,605.98
Commercial .....	5,321.19
General .....	2,922.85
Taxes 5.6 per cent gas sales.....	2,010.07
	<hr/> \$23,765.81

Net income before providing for depreciation.....	<hr/> <b>\$12,986.52</b>
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Per cent income upon investment per annum before providing for depreciation.....	<hr/> <b>7.35%</b>
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The evidence shows that defendant has not correctly charged replacement costs. All labor charges have been included in maintenance while cost of material abandoned has been deducted from capital, and cost of material installed added to capital. The result has been to increase the maintenance cost. Depreciation reserve to cover replacements has not been set aside.

Defendant has been expending considerable money and labor in the developing of its gas sales in Whittier and adjacent territory. This expense was absolutely necessary in order that defendant could increase sales sufficient to earn a reasonable return on its investment at the existing rates. Strictly speaking, this development cost should not be charged entirely to existing consumers, but partly to suspense to be prorated to the future larger sales resulting from such expense. Corrections for the above items will result in a reduction of the year's operating expenses chargeable to the year's business. Such reductions in operating expenses should be partially offset by additional earnings to cover previous losses resulting from introduction of natural gas and the accompanying reduction in revenue.

The company estimates a considerable increase in business for the ensuing year, though probably not as marked an increase as occurred during the past twelve months. Considering the increasing cost of other forms of fuel at the present time the company should realize a greater increase than it anticipates.

The net earnings for the ensuing year, after correcting for the deductions and additions referred to above, can not be estimated with the information available to as satisfactory degree of accuracy as is desirable. Defendant's development expenses in the effort to restore its fallen revenues have been large. The development process is not complete and the revenues will continue to increase materially. This has been the history of other localities where natural gas has been introduced.

The net earnings for the ensuing year will, from consideration of the evidence as to operating expenses and growth of business, exceed 8 per cent return exclusive of depreciation.

We will now refer to the question of discrimination between districts and cities.

The rate in the principal cities of Orange County (75 cents per 1,000 cubic feet for the smaller sales) was voluntarily put into effect when natural gas was first introduced. Defendant has since contended that the rate does not yield a fair return and so testified in the present case. No records were introduced by either party setting forth the facts regarding the actual net return.

The cities of Fullerton, Santa Ana and Anaheim do not differ materially from Whittier and there can not be any reasonable justification for a 45-cent differential in the rate. We question that a difference in the net return can account for any great amount of the difference.

The rates for similar service in Garden Grove, West Orange, El Modena and other of the smaller towns in Orange County commences with \$1.00 per 1,000 for the first 2,000 cubic feet, 80 cents per 1,000 for the next 3,000 cubic feet, with a further reduction for larger consumptions. These rates were put in effect voluntarily by the company and for the smaller consumptions are materially lower than in Whittier.

It was impossible to determine the reasonableness of the rates in Pomona from the investigation in Case No. 1051, owing to the fact that natural gas had been served in Pomona but one month at the time of the hearing. Pomona is, however, a city closely comparable in size and gas service with Whittier and defendant continued the existing top rate of \$1.10 per 1,000 cubic feet there, reducing the rate for larger consumptions, so that the average rate, under certain conditions, is less than in Whittier.

The rates of defendant in the smaller communities in eastern Los Angeles County which are served with natural gas from the same oil fields and which require a transmission beyond Whittier of over fifteen miles are, under certain conditions, materially lower than those charged in Whittier. The schedule of rates for domestic and commercial service in Monrovia and Sierra Madre is as follows:

First 1,000 cubic feet per month,	\$1.25 per 1,000 cubic feet.
Next 1,000 cubic feet per month,	1.10 per 1,000 cubic feet.
Next 3,000 cubic feet per month,	.90 per 1,000 cubic feet.
Next 15,000 cubic feet per month,	.70 per 1,000 cubic feet.
Next 30,000 cubic feet per month,	.50 per 1,000 cubic feet.
Over 50,000 cubic feet per month,	.40 per 1,000 cubic feet.

**Prompt Payment Discount.** A discount of 10 cents per 1,000 cubic feet will be allowed for all gas in excess of 1,000 cubic feet if bill is paid within fifteen days of presentation.

A comparison of the bills under this rate and that now in effect in Whittier shows that, except for smaller consumptions, the net rate in Monrovia is materially lower than Whittier.

	Bill	
	Whittier, Net	Monrovia, Net
Minimum bill -----	\$1 00	\$1 00
Cubic feet per month—		
1,000 -----	1 20	1 25
2,000 -----	2 40	2 25
5,000 -----	5 70	4 65
15,000 -----	13 70	10 65
20,000 -----	16 70	13 65
30,000 -----	22 70	17 65
50,000 -----	30 70	25 65

The net rates in the municipalities of east Los Angeles County are the same as in Monrovia.

It is apparent from the above that the defendant has granted a much lower rate for all but the smaller consumers in the small municipalities in eastern Los Angeles County.

We must conclude from an analysis of the evidence in this case that the defendant has been and is discriminating against Whittier in the rates charged for gas service. Such discrimination should be removed. Defendant has voluntarily put into effect in other communities rates lower than those charged in Whittier, and we must assume either that it is earning a fair return under those rates and can do the same in Whittier or that defendant is willing to operate for a lower rate of return in the other municipalities than it desires the commission to allow in estimating the rates to be charged in Whittier.

Defendant has signified its intention to request a revision of its rates throughout its entire territory. To date no such application has been received. In case such request is made the matter of reasonable rates and discrimination will be fully determined.

The discrimination as set forth herein should be removed in so far as it can be determined from the evidence at hand.

The rates herein set forth are calculated from the evidence to be just and reasonable.

#### ORDER.

City of Whittier having filed complaint that rates for gas service charged by Southern Counties Gas Company in the city of Whittier are unjust and unreasonable, and a public hearing having been held and the case being submitted and now ready for decision, the commission hereby finds as a fact that the rates herein established for general domestic and commercial service and special off-peak industrial service of natural gas in the city of Whittier are just and reasonable and that the rates now in effect for said service in the city of Whittier are unjust and unreasonable in so far as they differ from said rates established by this order.

Basing its order upon the above finding of fact and the findings set forth in the opinion preceding this order,

*It is hereby ordered* that Southern Counties Gas Company be and the same is hereby ordered to file with the Railroad Commission within twenty days after date of this order and make effective for the regular meter readings made on or after November 25, 1917, the following rates:

#### TABLE No. I.

*General Domestic and Commercial Service.*

*Territory—City of Whittier.*

*Character of Service.*

This schedule applies to sale of natural gas of approximately 1,100 B. t. u. per cubic foot for general domestic and commercial service for lighting, cooking, heating, etc.

*Rate.*

First	2,000 cubic feet per meter per month,	\$1.10 per 1,000 cubic feet.
Next	3,000 cubic feet per meter per month,	.80 per 1,000 cubic feet.
Next	15,000 cubic feet per meter per month,	.60 per 1,000 cubic feet.
Next	30,000 cubic feet per meter per month,	.40 per 1,000 cubic feet.
Over	50,000 cubic feet per meter per month,	.30 per 1,000 cubic feet.
Minimum bill, \$1.00 per month per meter.		

## TABLE No. II.

*Special Off-Peak Service.**Territory—City of Whittier.*

Character of Service: This schedule applies only to industrial consumers whose hours of heavy demand, if any, are not coincident with the heavy demand hours of domestic consumers. Consumers of this class may be shut off on thirty minutes notice in the event of an actual or threatened shortage of gas.

*Rate.*

First	2,000 cubic feet per meter per month,	\$1.10 per 1,000 cubic feet.
Next	3,000 cubic feet per meter per month,	.80 per 1,000 cubic feet.
Next	5,000 cubic feet per meter per month,	.60 per 1,000 cubic feet.
Next	10,000 cubic feet per meter per month,	.40 per 1,000 cubic feet.
Over	20,000 cubic feet per meter per month,	.20 per 1,000 cubic feet.
Minimum bill, \$1.00 per month per meter.		

Rates for other classes of service in the city of Whittier not herein set forth shall continue without modification.

Dated at San Francisco, California, this ninth day of November, 1917.

## DECISION No. 4832.

## TOWN OF LIVERMORE

*vs.*

## THE WESTERN PACIFIC RAILROAD COMPANY.

## Case No. 1142.

*Decided November 13, 1917.*

Where a heavily traveled road crosses the tracks of a railroad company and the view of approaching trains is badly obstructed by buildings and trees, a protection consisting of two crossing bells is not considered sufficient and the railroad company is required to install an automatic flagman within six months, such flagman to be installed in the center of the street.

*W. J. Locke*, for Complainant.

*R. W. MacDonald*, for Defendant.

*GORDON*, Commissioner.

## OPINION.

In this complaint the city of Livermore alleges that the protection installed at the crossing of the Western Pacific Railroad Company's track with Livermore avenue does not afford ample protection, and

asks the commission to order the installation of an automatic flagman. The railroad company denied the need of further protection and a public hearing was held in Livermore on October 19.

Livermore avenue is a north and south street intersecting the tracks of the Western Pacific Railroad, which are located on Oak, an east and west street. The crossing is now protected by two bells, one on the southeast corner and one on the northeast corner. The view at each of the four corners is more or less obstructed by houses and by trees along the curb line. The street is heavily traveled, especially by four and six-horse teams, and the crossing is so situated that the driver of a long team can not see approaching trains until after his leading team is on the track.

It is very apparent that in a situation such as this ample means of protection should be afforded. The several witnesses who were sworn were almost unanimous in their testimony that when a strong wind was blowing from certain directions the sound of the bells was inaudible and that occasionally they were inaudible above the noise of a blacksmith's shop located close to the crossing. At least one accident has taken place on the crossing and several have been narrowly averted.

Automatic flagmen are not an expensive means of protection and I believe the two bells in this instance should be replaced by a flagman. It should be installed in the most conspicuous location, that is, in the center of the traveled highway; and to make the crossing more safe, the trees on the street corners should be trimmed or removed. The city is willing to do this, so it will not be required in the following order which I recommend.

#### ORDER.

Town of Livermore having asked the commission to order the installation of an automatic flagman at the crossing of the Western Pacific Railroad Company with Livermore avenue, and it appearing that such protection should be installed,

*It is hereby ordered* that the Western Pacific Railroad Company shall, within six months from the date of this order, install a first-class automatic flagman, electrically lighted adjacent to its track, in the center of Livermore avenue.

*It is hereby further ordered* that the commission reserves the right to make such further orders relative to the location, construction, operation, maintenance and protection of this crossing as to it may seem right and proper.

Dated at San Francisco, California, this thirteenth day of November, 1917.

## DECISION No. 4833.

IN THE MATTER OF THE APPLICATION OF CLEAR LAKE RAILROAD  
COMPANY FOR AN ORDER AUTHORIZING THE ISSUANCE OF  
STOCK AND BONDS.

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Application No. 651.*Decided November 13, 1917.*

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- Applicant authorized to issue \$152,900.00 par value of common stock and \$500,000.00 face value first mortgage bonds, also an equal face value of cumulative participating bonds which shall be used to redeem the first mortgage bonds, the stock and first mortgage bonds to be used in financing the construction of a line of railroad from Hopland to Lakeport.
- All bonuses and grants heretofore paid or to be paid in any way or form in connection with the construction of applicant's railway shall be assigned to applicant and not disbursed for any purpose unless such disposition has first been approved by the Railroad Commission.
- A company which proposes to construct a railroad under plans which provide for the collection of rates which will permit the retirement of all outstanding bonds within a stated period of time can not deem the commission's approval of its plan of financing as conclusive that its proposed schedule of rates will be approved.

*Haven & Athearn, by F. G. Athearn, for Applicant,**EDGERTON, Commissioner.***THIRD SUPPLEMENTAL OPINION.**

On September 11, 1917, Clear Lake Railroad Company filed its amended second supplemental petition in the above-entitled matter. In this petition, applicant requests authority to execute a trust deed substantially in the same form as the trust deed attached to the second supplemental application herein and marked "Exhibit C" to secure the payment of \$500,000.00 face value of first mortgage 6 per cent 25-year bonds, also to execute a trust deed substantially in the same form as the trust deed attached to the second supplemental application herein and marked "Exhibit D" to secure the payment of \$500,000.00 face value of 25-year 6 per cent cumulative participating mortgage bonds. Applicant also requests authority to issue \$152,900.00 par value of its common capital stock, \$500,000.00 of its first mortgage bonds and \$500,000.00 of its cumulative participating bonds. Of the stock, \$150,000.00 as well as the \$500,000.00 of first mortgage bonds are to be issued to Guy L. Hardison as compensation for the construction of applicant's proposed line of railway from Hopland, Mendocino County, to Lakeport, Lake County, a distance of 23 miles; \$25,000.00 of stock applicant desires to issue in exchange for terminal properties at Lakeport, while \$7,900.00 of stock it proposes to issue in exchange for stock issued heretofore without authority from the commission.

In a former decision the commission authorized applicant to issue \$25,000.00 of stock for terminal properties. The time within which

applicant was permitted to issue the \$25,000.00 of stock has expired. None of the stock has been issued.

Attached to the amended second supplemental application and marked "Exhibit 1" is an agreement between Guy L. Hardison and Clear Lake Railroad Company, which is to be the basis of the contract to be entered into for the construction of applicant's railroad. This agreement, as modified by the waiver filed with the commission on October 26, 1917, by Guy L. Hardison, in effect provides that there is to be issued to Guy L. Hardison \$500,000.00 of first mortgage bonds together with \$150,000.00 par value of capital stock, or such an amount as may be authorized by the Railroad Commission, to finance the construction of the railroad. The contractor is under no obligation to begin construction until there have been obtained valid subscriptions for \$250,000.00 of applicant's cumulative participating bonds. It is further provided in this agreement that Guy L. Hardison shall pay all construction expenditures including overhead charges, and be responsible for the operation of the road for a period of thirty days after its completion. The agreement contemplates that at least 51 per cent of the stock authorized by the Railroad Commission will be issued to Guy L. Hardison to assure him control of the company. He is unwilling to undertake the construction and financing of this enterprise unless he is given control thereof during the time that it is necessary to carry out the financial plans here involved.

As above indicated, applicant intends to execute a trust deed securing the payment of \$500,000.00 face value of 6 per cent 25-year bonds. This trust deed is to be a lien on all of applicant's property now owned or hereafter acquired. The proposed trust deed provides that all of applicant's surplus earnings, that is—all of its gross earnings from operation less an amount necessary for operating expenses, maintenance and fixed charges, including taxes, shall be paid into a sinking fund for the purchase and redemption of first mortgage bonds. All payments by subscribers for cumulative participating bonds must also be paid into this sinking fund. All sinking fund payments must be used by Clear Lake Railroad Company to refund first mortgage bonds.

Applicant proposes to execute a trust deed securing the payment of \$500,000.00 face value of 25-year 6 per cent cumulative participating bonds. The proceeds of these bonds may only be used for the purpose of refunding or redeeming the first mortgage bonds of the railroad. After the participating bonds are certified by the trustee, they are to be delivered to the order of the railroad "upon receipt of payment in full of the full face value of the bonds so to be delivered, or, upon receipt from the railroad or from the trustee of the first mortgage bonds of the railroad, of an equivalent face value amount of the said first mortgage bonds." The first mortgage bonds refunded with all



interest coupons detached and canceled, shall be delivered to the trustee under the trust deed securing the payment of the cumulative participating bonds as security for said bonds. As any of the cumulative participating bonds are redeemed and canceled, a like amount of first mortgage bonds deposited with the trustee under the trust deed of the participating bonds shall be redeemed and canceled. If the company fails to pay interest on the cumulative participating bonds, no foreclosure can be had. The interest, however, is cumulative. If the bonds are not paid at maturity, the trustee may and upon being requested in writing by the holders of a majority in amount of the bonds outstanding shall proceed to take the necessary steps to enforce the provisions of the trust deed.

Applicant has been taking subscriptions for \$350,000.00 of the cumulative participating bonds under an agreement which substantially provides that no bonds shall be issued until fully paid; that 10 per cent of the subscriptions shall be paid within thirty days after the railroad is completed and placed in regular operation; that the balance of the subscriptions is due twenty years after the date of the first payment; that subscribers may pay the balance prior to the due date; that the deferred payments shall bear interest at a rate not exceeding 6 per cent per annum, provided that the interest on the deferred payments shall be computed at a rate sufficient only to make up the deficiency in the interest charges on the first mortgage bonds which the railroad has failed to earn; that to secure the payment of the subscriptions the railroad shall have a lien on the subscribers' properties described in the subscription agreement; that all payments shall be made to the trustee and that such payments together with the net earnings of the company shall be used to refund or redeem first mortgage bonds or cumulative participating bonds; that the subscription agreement shall not become effective until subscriptions have been obtained for \$350,000.00 of cumulative participating bonds and that the company agrees to begin the construction of the road within thirty days after subscriptions for \$350,000.00 of these bonds have been obtained and that said construction shall be completed within eight months thereafter.

Paragraph 3 of the subscription agreement reads in part as follows:

"The intent and meaning of this agreement, and the expectations of the parties hereto, being, that if the earnings of said company are sufficient to meet its operating charges, taxes and assessments, depreciation and interest on outstanding first mortgage bonds, and the said sinking fund is sufficient to retire the first mortgage bonds within the said twenty (20) year period, the subscribers will not be called upon for any portion of the deferred amounts of their subscriptions, and that the cumulative participating bonds, that are to be held in trust by said trustee, for the subscribers, will be automatically retired and canceled as the

outstanding first mortgage bonds are paid and canceled, and that the cumulative participating bonds, which are to be issued to the subscribers when paid for, as herein provided, will be paid and canceled before the stockholders can participate in any of the earnings of the road."

It appears that to date subscriptions have been secured for approximately \$209,000.00 of the cumulative participating bonds. As said above, the subscribers for these bonds can not be held liable until valid subscriptions have been secured for \$350,000.00 face value of the bonds. The contractor on the other hand is obligated to begin the construction of the road as soon as valid subscriptions have been obtained for \$250,000.00 of the participating bonds from resident and nonresident owners of real property situated tributary to the railroad. Paragraph 2 of the agreement between Guy L. Hardison, the contractor, and Clear Lake Railroad Company, provides in substance that the contractor shall at his own cost and expense consummate the plan of financing the railroad within ninety days after a final order is obtained from the Railroad Commission authorizing the issue of stocks and bonds and the execution of any contracts which must be approved by the Railroad Commission.

The commission is not called upon to approve either the agreement which is the basis of the construction contract, or the subscription agreement for cumulative participating bonds. I believe, however, that there should be filed with the commission a complete copy of each subscription for participating bonds, and that the commission should be informed of any and all payments made on said subscriptions and of the application of the moneys thus received.

The interest of the commission goes primarily to the amount of stock and bonds to be issued to finance the construction of this road. It is not within the province of the commission to advise investors. In this instance, J. B. Rogers, interested in the financing of Clear Lake Railroad Company informs the commission that the subscribers for cumulative participating bonds have full knowledge of the financial plans of applicant. We may, therefore, assume that the subscribers realize that the 10 per cent paid on their subscriptions within thirty days after the road is completed will in effect be used to reimburse the contractor in part for his construction expenditures. True, this money will be used to redeem first mortgage bonds, but the fact remains that the bonds will be issued to Guy L. Hardison in part payment for the construction of the road.

While it is proposed by the railroad to charge such rates as to permit the retirement of the bonds out of earnings, a matter of which the subscribers for participating bonds are apparently aware, it should be understood that the commission in no way in this proceeding approves the company's proposed rate schedule.

Applicant in its last annual report shows stock outstanding in the sum of \$82,150.00. The proceeds from the sale of this stock have been used for grading, for purchase of some rails, for the payment of preliminary surveys, and for other purposes. Some of the work done and material acquired will be used in the completion of the road. Obviously, the amount of stock heretofore issued should be taken into consideration in connection with this supplemental application. I am therefore of the opinion that the amount of stock to be issued to Guy L. Hardison as part payment for the road should not exceed \$120,000.00. I am further of the opinion that the stock and bonds herein authorized to finance the construction of this railroad should be issued only from time to time after the commission is furnished with detailed construction expenditures.

In the commission's opinion in this application of November 9, 1916 (Decision No. 3863), authority to issue securities was withheld, among other reasons, because a sufficiently complete presentation of the engineering plans for the proposed lines was not then before the commission. The presentation of these features is now in such detail as to enable the commission to make its order.

The revised line appears to be practicable, and the estimate of cost of construction, which has now been furnished and which totals \$532,868.00 for the entire line, including equipment, overheads, and an estimated 10 per cent for contractor's profits, seems sufficient to complete the road.

The proposed location necessitates heavy grade and sharp curves because of the peculiar and difficult topography of the country; but the construction and operation with a proposed Shay engine freight service and gasoline motor passenger service will be feasible.

A check of the company's estimates of traffic, revenues and expenses leads to the conclusion that from the traffic point of view the commission is justified in granting the application.

It must, of course, be understood that the cost estimate total of \$532,868.00 is based on roadbed, structures and equipment, as shown in the construction estimate submitted to the commission. If this estimate or the construction standards should be changed during the course of the building of the road, resulting in either an increase or a decrease of the estimated cost, the commission reserves the right to change the amount of securities to be issued to the contractor in payment for the road.

The agreement with Hardison (Exhibit 1 of the second supplemental application) provides on page 1 for—

“Clear Lake Railroad Company to enter into a contract with Guy L. Hardison, or with a corporation to be organized by said Hardison, for the construction, equipment, and initial operation of said railroad.”

And further, on page 2, for—

“the said railroad to be built and equipped in accordance with plans, profiles, and specifications to be hereafter filed with said Railroad Commission.”

Since the proposed construction standards, plans and specifications, as they have been filed with the second supplemental application, are now in general approved by the commission in this opinion and order, it would not appear necessary for the commission specifically to approve the contemplated construction contract unless this contract departs from the plans of construction now before us. I suggest that the contract contain a clause providing that if changes are to be made diminishing or increasing the quantity or extent of the work covered in the contract, the amount payable to the contractor shall then be diminished or increased proportionately and in accordance with the prices specified in the construction estimate referred to.

The authority to issue securities should not, however, become effective until the construction contract has been executed, filed with and approved by the commission.

As suggested by counsel for applicant, I believe that the contractor should give a \$500,000.00 surety bond to assure the completion of the road and the acquisition of the necessary equipment. A certified copy of this bond should be filed with the Railroad Commission.

I am also of the opinion that any bonuses in land, in cash, or in other forms given by landowners or others who will be benefited by the construction of this line, should accrue to the advantage of the railroad company and should be used either to assist in defraying the cost of construction or in meeting the interest payments on the bonds during the first years of operation. And I recommend a provision in this order that a statement of all bonus payments heretofore made, or hereafter to be made, in connection with this enterprise, be filed with this commission.

I herewith submit the following form of order:

#### **SECOND SUPPLEMENTAL ORDER.**

Clear Lake Railroad Company having applied to the Railroad Commission for authority to execute trust deeds and to issue stock and bonds in the amounts and for the purposes set forth in the foregoing opinion, and a hearing having been held and it appearing to the Railroad Commission that the money, property or labor to be procured or paid for by such issue is reasonably required for the purpose or purposes specified in the order and that the expenditures for such purpose or purposes are not in whole or in part reasonably chargeable to operating expenses or to income,

*It is hereby ordered* that Clear Lake Railroad Company be and it is hereby granted authority to issue \$152,900.00 par value of common capital stock, \$500,000.00 face value of first mortgage 6 per cent 25-year bonds, and \$500,000.00 face value of 6 per cent 25-year cumulative participating bonds.

*It is hereby further ordered* that Clear Lake Railroad Company be and it is hereby granted authority to execute a trust deed substantially in the same form as the trust deed attached to the second supplemental application herein and marked "Exhibit C."

*It is hereby further ordered* that Clear Lake Railroad Company be and it is hereby granted authority to execute a trust deed substantially in the same form as the trust deed attached to the second supplemental application and marked "Exhibit D."

The authority herein granted to issue stock and bonds is granted upon the following conditions and not otherwise:

1. Stock in the amount of \$120,000.00 may be issued for the purpose of financing in part the construction of applicant's railroad.

2. Stock in the amount of \$25,000.00 may be issued for the purpose of acquiring a one-half interest in terminal properties at Lakeport, having a frontage on Clear Lake and being described in the application herein.

3. Stock in the amount of \$7,900.00 may be issued in lieu of a like amount of stock heretofore issued without authority from the Railroad Commission.

4. The \$500,000.00 of first mortgage bonds herein authorized to be issued shall be used by applicant to finance in part the construction of its line of railway.

5. The proceeds obtained from the issue of \$500,000.00 of cumulative participating bonds herein authorized to be issued shall be used by applicant only for the purpose of redeeming and refunding its \$500,000.00 face value of first mortgage bonds.

6. None of the stock and bonds herein authorized to be issued to construct applicant's line of railway shall be issued until applicant has filed with the Railroad Commission a copy of the construction contract proposed to be entered into between applicant and Guy L. Hardison, said contract to provide that payments to the contractor shall be made periodically only after detailed statements of construction expenditures have been furnished to the railroad company, and a copy of such statements filed with the Railroad Commission, and before authority herein granted to issue stock and bonds shall become effective the approval of said construction contract must have been obtained by supplemental order of this commission.

7. Applicant shall keep accurate and complete accounts in accordance with the classification as prescribed by the Railroad Commission for steam railroads.

8. Applicant shall file with the Railroad Commission a complete copy of each subscription for the purchase of cumulative participating bonds, such copy to show any and all conditions under which the subscription was made.

9. Applicant shall file with the Railroad Commission a statement of all bonuses and grants heretofore paid or to be paid in any way, in cash or in any other form, to any person or corporation in connection with the construction of the railway herein under consideration; and such bonuses or grants, unless otherwise authorized by the Railroad Commission, shall be made payable or assigned to the applicant herein. All moneys or other considerations received in connection with said bonuses or grants shall be held by the applicant and no disposition made thereof until such disposition has been authorized by the Railroad Commission.

10. Applicant shall file for the approval of the Railroad Commission a certified copy of the contractor's surety bond, such bond to be for not less than \$500,000.00.

11. Applicant shall keep separate, true and accurate accounts showing the receipt and application in detail of the proceeds of the sale of the stock and bonds herein authorized to be issued; and on or before the twenty-fifth day of each month the company shall make verified reports to the commission stating the sale or sales of said stock and bonds during the preceding months, the terms and condition of sales, the moneys realized therefrom, and the use or application of such moneys, all in accordance with this commission's General Order No. 24, which order, in so far as applicable, is made a part of this order.

12. The authority herein granted to issue stock and bonds shall not become effective until applicant has paid the fee prescribed by the Public Utilities Act.

13. The authority herein granted to issue common capital stock and first mortgage bonds shall apply only to such stock and bonds as may be issued on or before October 1, 1918; cumulative participating bonds may be issued at any time hereafter upon the full payment of the subscription price in accordance with the subscription agreement and the trust deed under which the bonds are being issued.

The foregoing third supplemental opinion and second supplemental order are hereby approved and ordered filed as the third supplemental opinion and second supplemental order of the Railroad Commission of California.

Dated at San Francisco, California, this thirteenth day of November, 1917.

## DECISION No. 4834.

IN THE MATTER OF THE APPLICATION OF THE UNITED STAGES FOR A CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY TO OPERATE STAGE OR TRUCK SERVICE BETWEEN LA JOLLA, CALIFORNIA, AND CAMP KEARNY, CALIFORNIA.

Application No. 3302.

*Decided November 13, 1917.*

BY THE COMMISSION.

**ORDER OF DISMISSAL.**

United Stages, above applicant, having filed written withdrawal of above-described application,

*It is hereby ordered* by the Railroad Commission that said application be and it is hereby dismissed.

Dated at San Francisco, California, this thirteenth day of November, 1917.

## DECISION No. 4835.

IN THE MATTER OF THE APPLICATION OF THE COUNCIL OF THE CITY OF RICHMOND FOR AN ORDER PERMITTING THE CONSTRUCTION AND MAINTENANCE OF GRADE CROSSINGS ACROSS THE TRACK AND RIGHT OF WAY OF THE ATCHISON, TOPEKA AND SANTA FE RAILWAY COMPANY AT FOURTH STREET IN THE CITY OF RICHMOND.

Application No. 3241.

IN THE MATTER OF THE APPLICATION OF THE COUNCIL OF THE CITY OF RICHMOND FOR AN ORDER PERMITTING THE CONSTRUCTION AND MAINTENANCE OF GRADE CROSSING ACROSS THE RAILROAD TRACK OF THE ATCHISON, TOPEKA AND SANTA FE RAILWAY COMPANY AT EIGHTH STREET IN THE CITY OF RICHMOND.

Application No. 3244.

*Decided November 13, 1917.*

Applicant authorized to construct Fourth and Eighth streets in the city of Richmond across the tracks of Santa Fe company at grade, provided an automatic flagman is installed at the Eighth street crossing, the expense thereof to be borne by applicant. Order heretofore made authorizing opening of Third, Fifth and Eighth streets revoked.

*D. J. Hall*, for Applicant.

*M. W. Reed*, for The Atchison, Topeka and Santa Fe Railway Company.

GORDON, *Commissioner*.

**OPINION.**

Fourth and Eighth streets are north and south streets, which, together with the other streets in their vicinity, have been described

in the commission's Decision No. 2873, covering Application No. 1810, so it will be unnecessary to repeat that description here.

In Application No. 1810 the city sought permission to open Third, Fifth and Eighth streets at grade, and the commission granted that application subject to certain conditions, among which were the closing of Second street and Sixth street. The city did not accept these conditions and the present application was filed to secure a different solution of the crossing difficulties of the city in that vicinity.

As said in the order in Application No. 1810, additional grade crossings are needed over the tracks of the Santa Fe in this territory. If the two crossings now applied for are granted every other street will have a crossing and the needs of the community will be satisfied for many years to come, and as I believe they are needed this application should be granted. The crossing of Eighth street should be protected by an automatic flagman located in the center of the highway, and as this order will make the previous order unnecessary, the permission granted in Application No. 1810 should be revoked.

I recommend the following form of order:

#### ORDER.

City of Richmond having applied to the commission for permission to construct Fourth and Eighth streets at grade over the tracks of The Atchison, Topeka and Santa Fe Railway Company; and the commission having this day revoked the permission heretofore granted in Application No. 1810 for the construction of crossings in the same vicinity; and it appearing that this application should be granted,

*It is hereby ordered* that permission be and the same hereby is granted city of Richmond to construct Fourth and Eighth streets at grade over the tracks of The Atchison, Topeka and Santa Fe Railway Company at the points and in the manner shown by the map attached to the applications, subject to the following conditions and not otherwise:

(1) These crossings shall be constructed of a width of not less than forty (40) feet, with grades of approach not exceeding four (4) per cent, and shall in every way be made safe for the passage thereover of vehicles and other road traffic.

(2) The entire expense of constructing these crossings, together with the cost of their maintenance thereafter, shall be borne by applicant, except for that portion between the rails and two (2) feet outside thereof, which shall be maintained by the railway company.

(3) For the protection of the crossing at Eighth street there shall be installed a first-class automatic flagman of a type approved by the commission, electrically lighted and located in the center of the highway, the expense of which shall be borne by applicant. The expense



of maintaining the automatic flagman thereafter shall be borne by the railway company.

(4) The commission reserves the right to make such further orders relative to the location, construction, operation, maintenance and protection of said crossings as to it may seem right and proper, and to revoke its permission if, in its judgment, the public convenience and necessity demand such action.

Dated at San Francisco, California, this thirteenth day of November, 1917.

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Decision No. 4836, grade crossing; not printed. See end of volume.

DECISION No. 4837.

IN THE MATTER OF THE APPLICATION OF THE BOARD OF SUPERVISORS OF SANTA CLARA COUNTY, CALIFORNIA, FOR PERMISSION TO CONSTRUCT A PUBLIC HIGHWAY AT GRADE ACROSS THE TRACKS OF THE SOUTHERN PACIFIC COMPANY NEAR THE CITY OF PALO ALTO.

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Application No. 352.

*Decided November 13, 1917.*

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*Norman E. Malcolm*, for city of Palo Alto.

*F. E. Mitchell*, for Santa Clara County.

*George D. Squires*, for Southern Pacific Company.

*W. H. H. Hart* and *T. J. Butler*, for Mrs. Loretta B. Hart.

GORDON, *Commissioner*.

**FIRST SUPPLEMENTAL OPINION.**

On September 29 applicants in the above-entitled matter filed with the commission a supplemental application asking permission to make a slight change in the location of the subway ordered in the original order in this matter and to review the apportionment of the expense because of the higher prices of construction materials.

It is unnecessary to discuss the original application and order, or to refer to a protest which was filed against the construction of the subway, since it was directed against any subway rather than against the location now proposed. The change in location, which is slight, is desired to improve the approaches and make them safer and to avoid cutting trees. The additional cost of the subway over the original estimate amounts to about \$4,000.00 and there seems to be no reason why it should not be borne in accordance with the original order.

I recommend that this application be granted under the following form of order:

**FIRST SUPPLEMENTAL ORDER.**

Applicants in the above-entitled matter having applied to the commission for its approval of a change in location of the subway heretofore ordered and the apportionment of the cost of same, and a public hearing having been held, and the commission having been fully apprised in the premises,

*It is hereby ordered* that applicant be and the same hereby is granted permission to locate the proposed subway at the point shown by the map attached to the revised application filed on September 29, 1917.

*It is hereby further ordered* that this subway shall be completed and ready for use within twelve (12) months of the date of this order.

*It is hereby further ordered* that all other provisions of the original order be and the same hereby are in full force and effect.

Dated at San Francisco, California, this thirteenth day of November, 1917.

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DECISION No. 4838.

PURITAS COFFEE AND TEA COMPANY

*vs.*

THE ATCHISON, TOPEKA AND SANTA FE RAILWAY COMPANY,  
LOS ANGELES TRUST AND SAVINGS BANK AND GODFREY  
HOLTERHOFF AND F. W. BRAUN.

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Case No. 1071.

*Decided November 13, 1917.*

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1. A railroad company which owns and operates a spur track on property leased from private individuals, which lease provides that the railroad company may use the spur for the purpose of receiving or delivering freight to other parties than those party to the lease, provided such additional business shall not inconvenience the second party other than is necessarily consistent therewith, should be required to furnish additional service over such spur when it is shown that such service will not violate the provisions of the lease.
2. Investigation showing that the freight business of complainant will not unreasonably interfere with the business of parties primarily incurring the expense of such spur, order made permitting complainant to construct a connection therewith, provided it pays its pro rata of the original cost thereof.

*Ward Chapman and L. M. Chapman*, for Complainant.

*E. W. Camp and M. W. Reed*, for The Atchison, Topeka and Santa Fe Railway.

*Oscar C. Mueller*, for Los Angeles Trust and Savings Bank.  
*Godfrey Holterhoff and F. W. Braun*, Defendants.

LOVELAND, *Commissioner*.

**OPINION.**

Puritas Coffee and Tea Company, complainant in this proceeding, is a wholesale dealer, importer and distributor of coffees, teas and spices with its principal place of business located at No. 811 Traction avenue in the city of Los Angeles. The plant of complainant is located on lots 23, 24, 25 and 26 of Mills & Wicks Extension of Second street, as per map recorded in Book 13, page 87, Miscellaneous Records of Los Angeles County, one of said lots, lot 26, abutting upon and adjoining a certain spur track controlled by The Atchison, Topeka and Santa Fe Railway Company. Complaint alleges that the spur track is located on land leased by The Atchison, Topeka and Santa Fe Railway Company from Los Angeles Trust Company and F. W. Braun, said land adjoining and abutting on property controlled by complainant and being said lot 26 as hereinabove stated, and that applications have been repeatedly made to The Atchison, Topeka and Santa Fe Railway Company for the delivery of cars upon said spur track, but that all such applications have been refused upon the ground that other defendants herein object to the delivery of cars and will be inconvenienced in the handling of their business served by the spur track. Complaint further alleges that by reason of the refusal of permission to unload cars from the spur track that an expense of approximately twenty dollars per car is necessary for the drayage from the freight delivery tracks of The Atchison, Topeka and Santa Fe Railway to complainant's place of business. Complainant asks a finding by this commission that complainant is entitled to the use of said spur track for the purpose of receiving and unloading cars consigned to complainant at the point where its property abuts on said spur track upon payment of such proportion of the cost of the construction as the commission may find to be reasonable and for an order directing The Atchison, Topeka and Santa Fe Railway Company to provide such service as may be needed by the complainant.

Defendants in this proceeding filed answers denying the material allegations of complainant.

A public hearing was held at Los Angeles on July 6, 1917. The case was submitted with the understanding that briefs would be filed by the attorneys for complainant and the defendants.

The Puritas Coffee and Tea Company is a corporation controlled through stock ownership by W. A. Glascock, its president. The plant is located on lots 23, 24 and 25 of Mills & Wicks Extension of Second street, Los Angeles, said lots being owned by W. A. Glascock and M. P. Glascock, his wife. Lot 26 of Mills & Wicks Extension of Second street, Los Angeles, is owned by L. McClintock and was leased, with option to purchase, by McClintock, under date of April 22, 1916, to

W. A. Glascock. Lot 26 herein referred to adjoins a spur track operated by The Atchison, Topeka and Santa Fe Railway, such track extending from the freight yards near Third street over a right of way leased from F. W. Braun and the Los Angeles Trust Company. The history of the right under which The Atchison, Topeka and Santa Fe Railway hold occupancy of the land upon which the spur is located, after it leaves their own property, is as follows:

On November 12, 1909, an agreement was executed between the railway company and F. W. Braun, covering the installation and maintenance of a spur track 443 feet in length (a portion of same being on the station reservation of The Atchison, Topeka and Santa Fe Railway). Under this agreement Braun was to furnish, without cost to the railway, right of way for the track over such portion of Braun's property as was required. Braun was not to assign contract without written consent of the railway company. The railway company agreed to maintain track during life of agreement. In the mutual agreement of the parties, appears the following clause under Article III, paragraph 1:

“ \* \* \* and said railway company may use the same for other purposes than the delivery of freight to or the receipt of freight from the second party, provided that such use shall inconvenience the business of the second party as little as possible consistent therewith.”

On January 28, 1916, the contract of F. W. Braun was assigned to the National Chemical Company of California, said assignment being consented to by The Atchison, Topeka and Santa Fe Railway Company.

On August 27, 1909, a lease was executed by the Los Angeles Trust Company to The Atchison, Topeka and Santa Fe Railway Company of a right of way for a spur track, said lease covering land located  $8\frac{1}{2}$  feet from each side of the center line of the following described proposed spur track:

“Beginning at or near the southeast corner of said lot 23 of the Thomas Tract; thence westerly, on a 20-degree curve, concave to the south, a distance of 72.1 feet to a point in said lot 22 distant 101.5 feet southerly at right angles from the southerly line of Third street and easterly 8.2 feet at right angles from the westerly line of said lot 22; thence westerly, parallel with and 101.5 feet southerly from said southerly line of Third street, 208.2 feet, more or less, to point of ending in the westerly line of said lot 17.”

The property thus leased was contained in the following:

“ \* \* \* portions of lots 17, 18, 19, 20, 21, 22 and 23 of block 'H' of the Thomas Tract in the city of Los Angeles, state of California, as per map recorded in Book 3, pages 60 and 61, Miscellaneous Records of said county; of lot 15 of the Mills &

Wicks' Extension of Second street and adjoining subdivision, in said city, county and state, as per map recorded in Book 13, page 87 *et seq.*, of said Miscellaneous Records, and of that portion of lot A of said Mills & Wicks' Extension of Second street and adjoining subdivision, lying west of the prolongation southerly of the easterly line of said lot 23 of the Thomas Tract."

The railway company agreed not to sublet the premises nor to assign the lease or any right of interest thereby acquired.

Also to use the demised premises for the purpose of constructing, maintaining and operating a spur track thereon and thereover and for no other purpose; also agreed,

"The Railway company shall not, without the written consent of the trust company, use or permit said premises to be used for yard purposes or for the storing of cars or engines or other property thereon, but solely as a spur track for the moving of cars thereover."

On November 8, 1909, a standard form of spur or industry track contract was executed between the railway company and William Joyce, by which Joyce agreed to pay the usual industry proportion of the cost of a spur track over the right of way heretofore covered by lease from the Los Angeles Trust Company, estimated to be the amount of \$275.43. Joyce was not to assign the contract without the written permission of the railway company.

In the mutual agreements of the parties to this contract, the following appears in Article III, section 1:

" \* \* \* and said railway company may use the same for other purposes than the delivery of freight to or the receipt of freight from the second party, provided that such use shall inconvenience the business of the second party as little as possible consistent therewith."

On November 20, 1916, an agreement was entered into between The Atchison, Topeka and Santa Fe Railway Company, William Joyce and the Los Angeles Trust and Savings Bank, whereby Joyce assigned his contract to the Los Angeles Trust and Savings Bank and such assignment was consented to by The Atchison, Topeka and Santa Fe Railway Company. No change was made in the conditions of the contract by this assignment and the Los Angeles Trust and Savings Bank accepted all conditions and obligations imposed by the industry track agreement, without any reservation or modification.

The land originally leased to The Atchison, Topeka and Santa Fe by the Los Angeles Trust Company as above outlined, is the same that William Joyce applied for and built the spur track over, under the agreement between the railway company and Joyce as outlined above. Joyce, under the agreement, was required to furnish all right of way

(excepting such as was then *owned* by The Atchison, Topeka and Santa Fe).

The original lease from the Los Angeles Trust Company to The Atchison, Topeka and Santa Fe Railway Company provided for the use of the property "*solely as a spur track for the moving of cars there-over.*" No spur track was ever constructed under this lease; the spur track was installed under the agreement with William Joyce, and a condition of the agreement required that Joyce furnish all right of way not then *owned* by the Santa Fe.

At the hearing of this case the actual location of lot 26 of Mills & Wicks' Extension to Second street, Los Angeles, and its relation to the spur track right of way was the subject of dispute. It was stipulated by all parties that a survey should be made by a disinterested civil engineer, and it was agreed that the Title Insurance and Trust Company would furnish a statement as to the record title and title boundaries and Mr. V. J. Rowan would actually survey the lot and plat the survey for the information of the commission.

The record title as reported by the Title Insurance and Trust Company is as follows:

*"In re the case of Puritas Coffee and Tea Co. vs. The Atchison, Topeka and Santa Fe Railway Company, et al., with respect to the boundaries of lot 26 of Mills & Wicks' Extension of Second street, and adjoining subdivision in the city of Los Angeles, county of Los Angeles, state of California, as per map recorded in Book 13, pages 87 and 88, Miscellaneous Records of said county.*

*"From an examination of the record map of said tract, the map attached hereto being a copy of a part of said record map, we find the boundaries of said lot as shown on said map to be as follows: the length of the northwesterly line thereof 113.98 feet, the length of the southwesterly line thereof 25 feet, the length of the southeasterly line thereof 120 feet, the length of the northeasterly line thereof 19.12 feet. The length of the north line of said lot is not given on said map, said line scales about 9 feet and providing that the northwesterly and southeasterly lines of said lot and the southwesterly and northeasterly lines of said lot are parallel, and that the angle between the southwesterly line and the southeasterly line thereof is 90 degrees which is apparently the case; the distance of said north line by calculation is 8.41 feet.*

*"We find nothing of record indicating that the boundaries of said lot are other than as shown on said record map."*

The plat of the survey made by Mr. V. J. Rowan shows the boundaries of lot 26, Mills & Wicks' Extension of Second street, Los Angeles, to be as follows: The length of the northwesterly line 113.98 feet; the length of the southwesterly line 25 feet; the length of the southeasterly line 120 feet; the length of the northwesterly line 19.12 feet and the length of the northerly line 8.42 feet. The said northerly line,

8.42 feet in length, abuts on the property controlled by the defendant, Los Angeles Trust and Savings Bank, and the distance from the said northerly line of lot 26 of Mills & Wicks' Extension of Second street, Los Angeles, to the southerly line of the right of way leased to The Atchison, Topeka and Santa Fe Railway Company by the Los Angeles Trust Company under date August 27, 1909, is 1.58 feet at the easterly end and 1.63 feet at the westerly end.

It will be noted that from the plat of the survey made by Mr. V. J. Rowan, which survey was stipulated by counsel as indicating the correct boundaries of lot 26 of the Mills & Wicks' Extension of Second street, Los Angeles, and the location of the spur track right of way leased to The Atchison, Topeka and Santa Fe Railway by the Los Angeles Trust Company on August 27, 1909, that a small strip of land intervenes between the northerly line of said lot 26 of the Mills & Wicks' Extension and the southerly line of the right of way upon which the spur track is located. The other maps introduced in evidence in this proceeding show the boundary lines to be coincident, and it is possible that through some error in locating the spur that the narrow strip separating the boundary lines was left and this fact has not been known until the result of the Rowan survey was of record.

It is the contention of the defendants, Los Angeles Trust and Savings Bank, Godfrey Holterhoff and F. W. Braun, that the spur track owned, maintained and controlled by The Atchison, Topeka and Santa Fe Railway Company and located on land leased by the railway from F. W. Braun under date of November 12, 1909, and Los Angeles Trust Company under date August 27, 1909, is a private spur maintained and operated to serve only such industries as may now or hereafter be located on the property of said defendants. A careful inspection of the spur track agreements does not so indicate, as Article III, paragraph 1, of the spur track agreement executed under date November 8, 1909, between The Atchison, Topeka and Santa Fe Railway Company and William Joyce contains the following language:

“ \* \* \* and said railway company may use the same for other purposes than the delivery of freight to or the receipt of freight from the second party, provided that such use shall inconvenience the business of the second party as little as possible consistent therewith.”

The agreement entered into on November 12, 1909, between The Atchison, Topeka and Santa Fe Railway Company and F. W. Braun contains the same clause in Article III, paragraph 1. The standard form of spur track agreement as executed by The Atchison, Topeka and Santa Fe Railway Company gives the railway an unquestioned right to use spur tracks for the receipt of freight from and the delivery of freight to any other party than the industry with whom the agree-

ment is made, "*provided that such use shall inconvenience the business of the second party as little as possible consistent therewith.*" The right of the railway to use the spur track for the service of other patrons can not be questioned unless on the basis of inconvenience to the business of the industry which was a party to the agreement.

I will now consider the matter of the alleged inconvenience to the existing industries served by this spur track. From the evidence in this proceeding it appears that the various industries receiving carload shipments on the spur track and for the yearly period ending April 30, 1917, are as follows: Dearborn Drug Company, 21 cars; Southern California Supply Company, 27 cars; National Chemical Company, 70 cars; Davis Roofing Company, 2 cars; Leonard and Peck, 29 cars: a total of 149 cars and an average of  $12\frac{1}{2}$  cars per month. Of the above cars the shipments received by Leonard and Peck, amounting to 29 carloads, were intended for the use of the contractors erecting the building now occupied by the Puritas Coffee and Tea Company and the cars received by the several industries claimed by the defendants to be entitled to the exclusive use of the spur track therefore averaged but 10 per month. During the year the Globe Mills also received grain and mill products over this spur track, same being unloaded into warehouse space leased in the building owned by F. W. Braun and located on the easterly end of the spur near the property line of The Atchison, Topeka and Santa Fe freight yard. The number of cars handled by the Globe Mills was not definitely shown at the hearing, and although a statement has since been furnished by defendants' counsel showing 6,209 tons of grain to have been handled by the Globe Mills at the Braun warehouse from January, 1915, to October, 1916, inclusive, there is no segregation by which the actual tonnage moved over the spur track can be determined, the Braun warehouse being served by another spur track on the east side of the building. I am of the opinion that if this track has cared for shipments of all the industries now located and in addition has cared for 29 carloads for a temporary receiver of freight during the period above referred to, the business of the complainant can be accommodated and without inconvenience to the other industries located on this spur track.

I recommend the following order:

#### ORDER.

A public hearing having been held in the above-entitled proceeding, the matter having been duly submitted and the commission being fully advised in the premises,

It is hereby found as a fact that a connection with the spur track involved in this proceeding so as to serve complainant and the use of said spur track in receiving and delivering freight from and to complainant can be made without unreasonable interference with the



rights of the parties incurring the primary expense of such spur track, and basing its order on this finding of fact,

*It is hereby ordered* that complainant be entitled to connect with the spur track involved in this proceeding and to use the same upon payment to the parties incurring the primary expense of such spur track of a reasonable proportion of the cost thereof, the amount of such proportion, unless agreed upon by the parties in interest, shall be determined by the Railroad Commission after notice to the interested parties and a hearing thereon.

*It is further ordered* that the defendant, The Atchison, Topeka and Santa Fe Railway Company furnish switching service for all carload lots of freight consigned to or shipped from the plant of Puritas Coffee and Tea Company over that certain spur track in the city of Los Angeles constructed on the right of way as acquired by lease from Los Angeles Trust Company under date August 27, 1909, and by spur track agreements with F. W. Braun under date November 12, 1909, and William Joyce under date November 8, 1909, such service to be furnished at such times and in such manner that will cause the least possible inconvenience to the handling of carload business consigned to or shipped by the Los Angeles Trust and Savings Bank, Godfrey Holterhoff, or F. W. Braun, their tenants, lessees or assigns.

The commission reserves the right to make such other and further orders in this proceeding as to it may appear just and proper.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the state of California.

Dated at San Francisco, California, this thirteenth day of November, 1917.

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DECISION No. 4839.

IN THE MATTER OF THE APPLICATION OF THE SAN JOAQUIN LIGHT AND POWER CORPORATION FOR A CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY.

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Application No. 3189.

*Decided November 14, 1917.*

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BY THE COMMISSION.

**SUPPLEMENTAL ORDER.**

*It is hereby declared* that in accordance with the order heretofore made in this proceeding on October 22, 1917, San Joaquin Light and Power Corporation has filed a stipulation duly authorized by its board of directors, declaring that neither said company, its successors nor

assigns will ever claim before the Railroad Commission or any court or other public body a value for the rights and privileges granted in Ordinance No. 91 of the county of Mariposa, dated July 2, 1917, in excess of the actual cost of acquiring said rights and privileges, which cost is stated to be \$230.65.

Dated at San Francisco, California, this fourteenth day of November, 1917.

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DECISION No. 4840.

J. H. GRANDE

*vs.*

SOUTHERN PACIFIC COMPANY.

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Case No. 1084.

*Decided November 14, 1917.*

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BY THE COMMISSION.

**ORDER OF DISMISSAL.**

Complainant in the above-entitled proceeding having, on November 9, 1917, made written request to this commission that the above-entitled proceeding be dismissed,

*It is hereby ordered* that the above-entitled proceeding be and the same is hereby dismissed.

Dated at San Francisco, California, this fourteenth day of November, 1917.

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DECISION No. 4841.

IN THE MATTER OF THE APPLICATION OF COUNCIL OF THE CITY OF RICHMOND FOR AN ORDER PERMITTING THE CONSTRUCTION AND MAINTENANCE OF A GRADE CROSSING ACROSS THE RAILROAD TRACKS OF THE SOUTHERN PACIFIC COMPANY AT ROOSEVELT AVENUE IN THE CITY OF RICHMOND.

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Application No. 3242.

*Decided November 14, 1917.*

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Applicant granted permission to construct Roosevelt avenue across the tracks of Southern Pacific Company in the city of Richmond, provided such crossing is protected by an automatic flagman electrically lighted and installed in the center of the street, such protection to be installed at the expense of applicant.

*D. J. Hall*, for Applicant.

*George D. Squires*, for Southern Pacific Company.

GORDON, *Commissioner*.

**OPINION.**

Roosevelt avenue, which the city of Richmond desires to open in this application, is an east and west street between Clinton avenue to the north and Barrett avenue to the south.

It has been or is being improved on both sides of the tracks, and the belief of the city that it will become one of the main thoroughfares across the tracks of the railroad company seems to be justified, as it is a through street in both directions from them. The adjacent streets are a considerable distance away; Clinton avenue being 720 feet on one side and Barrett avenue 500 feet on the other; and it appears to me to be reasonable to permit a crossing at Roosevelt avenue. The crossing should be protected by an automatic flagman, electrically lighted and located in the center of the street.

I recommend the following form of order, in which the usual apportionment of expense is made:

**ORDER.**

City of Richmond having applied to the commission for permission to open Roosevelt avenue across the tracks of the Southern Pacific company, a public hearing having been held, and it appearing that this application should be granted subject to certain conditions,

*It is hereby ordered* that permission be and the same hereby is granted the city of Richmond to construct Roosevelt avenue across the tracks of the Southern Pacific Company, subject to the following conditions:

(1) The crossing shall be constructed of a width of not less than forty (40) feet, with grades of approach not exceeding four (4) per cent, and shall in every way be made safe for the passage thereover of vehicles and other road traffic.

(2) The entire expense of constructing the crossing, together with the cost of its maintenance thereafter in good and first-class condition for the safe and convenient use of the public, shall be borne by applicant, except for the portion between the rails and two (2) feet outside thereof which shall be maintained by Southern Pacific Company.

(3) For the protection of this crossing there shall be installed, at the expense of applicant, a first-class automatic flagman of a type approved by the commission, electrically lighted and located in the center of the highway. The expense of maintaining this automatic flagman thereafter shall be borne by Southern Pacific Company.

(4) The commission reserves the right to make such further orders relative to the location, construction, operation and maintenance of said crossing as to it may seem right and proper, and to revoke its per-

mission if, in its judgment, the public convenience and necessity demand such action.

Dated at San Francisco, California, this fourteenth day of November, 1917.

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DECISION No. 4842.

IN THE MATTER OF THE APPLICATION OF THE LA JOLLA-CAMP KEARNY STAGE COMPANY FOR CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY TO OPERATE MOTOR STAGE SERVICE BETWEEN LA JOLLA AND CAMP KEARNY.

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Application No. 3310.

*Decided November 14, 1917.*

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Applicant granted a certificate permitting the operation of auto busses for passenger traffic between Camp Kearny and La Jolla, San Diego County, provided all necessary permits are secured from the public authorities of the territory through which applicant proposes to operate.

*F. E. Mitchell*, for Applicant.

*Lieut. Wm. M. Galvin*, for Military Authorities at Camp Kearny.

*H. B. Green*, supervisor, for board of supervisors, San Diego County.

BY THE COMMISSION.

**OPINION.**

Applicant requests that the Railroad Commission make its order declaring that public convenience and necessity require the operation by it of an automobile stage line as a common carrier of passengers between La Jolla and Camp Kearny, a distance of about 10.5 miles, both in San Diego County.

A public hearing was held by Examiner Westover at San Diego, November 10, 1917.

Applicant proposes to operate daily a minimum of four cars on following schedule:

Leave La Jolla	Arrive La Jolla	Leave Camp	Arrive Camp
5.00 a.m.	6.45 a.m.	6.10 a.m.	5.55 a.m.
7.00 a.m.	8.45 a.m.	8.00 a.m.	7.45 a.m.
12.15 p.m.	2.00 p.m.	1.15 p.m.	1.00 p.m.
12.45 p.m.	2.30 p.m.	1.45 p.m.	1.30 p.m.
3.45 p.m.	5.30 p.m.	4.45 p.m.	4.30 p.m.
11.00 p.m.	12.35 a.m.	11.45 p.m.	11.45 p.m.

Petitioner proposes to charge following fares for the service:

50 cents one way and 90 cents round trip.

*Commutation Fares.*

Book of seven round trip tickets (for personal or family use only) good for one week after date of purchase will be sold at a 20 per cent discount on regular fares.

Book of thirty round trip tickets (for personal or family use only) good for one month after date of purchase, will be sold at a 40 per cent discount on regular fares.

The terminus in La Jolla is the Postoffice Garage. The terminus in Camp Kearny is near the Santa Fe station, at a point designated by the military authorities, applicant having been granted the necessary permit by such authorities, it appearing the declared policy of the military authorities to give exclusive rights to one responsible stage line operating over the route between Camp Kearny and La Jolla.

There are now located at Camp Kearny a great number of troops, which number will probably be increased in the near future. A number of army officers and their families reside at La Jolla, which is also a popular resort for soldiers from the Camp. The number of persons traveling between the points in question is increasing rapidly.

Applicant has been operating over the route since about September 12, 1917, most of the time on the above schedule, with extra trips when required. Passengers carried per day in both directions are estimated at about 500. No other carrier is operating over the same route or between the same points.

It was developed at the hearing that the name of the applicant is a fictitious trade name used by F. E. Mitchell and W. R. Middleworth, partners in business as Mitchell-Middleworth Company, and by Mrs. Frances Norris, who owns two cars operated by this service.

The business was originated by Mrs. Norris who operated two automobiles, a seven-passenger Paige and a seven-passenger Chalmers in a rental or taxicab business. When more cars were needed to handle the increased business the Mitchell-Middleworth Company placed in service a seven-passenger Stevens Duryea and two Ford cars. They are now purchasing two seven-passenger Hudson Super Sixes to place in this service, when the Ford cars now used will be used only for emergency service.

The parties propose to organize a partnership or corporation to operate under the name in which the application is made.

Applicant has not secured permits from either the city or county of San Diego as required by section 3 of chapter 213, statutes 1917, but has made the necessary applications therefor. The order herein will not become effective until the Railroad Commission has made a supplemental order herein reciting that such permits have been secured.

We are of the opinion that this application should be granted subject to the conditions contained in the following order:

#### ORDER.

La Jolla-Camp Kearny Stage Company having filed a petition asking that the Railroad Commission make its order declaring that public convenience and necessity require the operation by it of an automobile stage line as a common carrier of passengers between La Jolla and Camp Kearny, a public hearing having been held, the matter having been duly submitted and now ready for decision, and the Railroad

Commission being of the opinion that public convenience and necessity require the operation by W. R. Middleworth, F. E. Mitchell and Mrs. Frances Norris of an automobile stage line as a common carrier of passengers between La Jolla and Camp Kearny, on the conditions hereinafter specified,

The Railroad Commission hereby declares that public convenience and necessity require the operation by W. R. Middleworth, F. E. Mitchell and Mrs. Frances Norris of an automobile stage line as a common carrier of passengers between La Jolla and Camp Kearny, provided that this declaration shall not become effective until said W. R. Middleworth, F. E. Mitchell and Mrs. Frances Norris shall have secured from the Railroad Commission a supplemental order herein reciting that they have filed certified copies of permits from the city of San Diego and the county of San Diego, as provided by section 3 of chapter 213, laws of 1917; and provided, further, that the rights and privileges herein granted shall not be assigned or transferred unless the written consent of the Railroad Commission to such assignment or transfer has first been secured.

Dated at San Francisco, California, this fourteenth day of November, 1917.

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DECISION No. 4843.

IN THE MATTER OF THE APPLICATION OF THE SOUTHERN SIERRAS POWER COMPANY, BISHOP LIGHT AND POWER COMPANY, CORONA GAS AND ELECTRIC LIGHT COMPANY, COACHELLA VALLEY ICE AND ELECTRIC COMPANY, INTERSTATE TELEPHONE COMPANY, RIALTO LIGHT, WATER AND POWER COMPANY AND HOLTON POWER COMPANY FOR AN ORDER EXTENDING TIME FOR COMPLIANCE WITH CHAPTER 499, LAWS OF 1911, AS AMENDED BY CHAPTER 600, LAWS OF 1915.

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Application No. 2421.

*Decided November 15, 1917.*

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BY THE COMMISSION.

**FIRST SUPPLEMENTAL ORDER.**

Good cause appearing,

*It is hereby ordered* that the first paragraph of the order of September 26, 1916, in the above-entitled proceeding, be and the same is hereby amended to read as follows:

"1. The following extensions of time are hereby given to petitioners for complete compliance with the provisions of chapter 499, laws of 1911, as amended by chapter 600, laws of 1915:

To the Southern Sierras Power Company, to and including June 30, 1919.

To Bishop Light and Power Company, to and including June 30, 1918.

To Corona Gas and Electric Light Company, to and including December 31, 1917.

To Interstate Telegraph Company, to and including June 30, 1918.

To Rialto Light, Water and Power Company, to and including December 31, 1917.

To Holton Power Company, to and including June 30, 1918.

Petitioners shall complete the portions of their respective reconstruction work as follows: The Southern Sierras Power Company shall complete at least one-third of its reconstruction work on or before December 31, 1917, two-thirds on or before December 31, 1918, and the entire work on or before June 30, 1919; Bishop Light and Power Company shall complete at least one-half of its reconstruction work on or before December 31, 1917, and the entire work on or before June 30, 1918; Corona Gas and Electric Light Company shall complete its entire work on or before December 31, 1917; Interstate Telegraph Company shall complete at least one-half of its reconstruction work on or before December 31, 1917, and the entire work on or before June 30, 1918; Rialto Light, Water and Power Company shall complete its entire reconstruction work on or before December 31, 1917; and Holton Power Company shall complete at least one-half of its reconstruction work on or before December 31, 1917, and its entire work on or before December 31, 1918."

In all other respects the order of September 26, 1916, in the above-entitled proceeding shall remain in full force and effect.

Dated at San Francisco, California, this fifteenth day of November, 1917.

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DECISION No. 4844.

IN THE MATTER OF THE APPLICATION OF VALLEJO ELECTRIC LIGHT AND POWER COMPANY FOR AN ORDER EXTENDING TIME FOR COMPLIANCE WITH CHAPTER 499, LAWS OF 1911, AS AMENDED BY CHAPTER 600, LAWS OF 1915.

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Application No. 2334.

*Decided November 15, 1917.*

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BY THE COMMISSION.

**FIRST SUPPLEMENTAL ORDER.**

Good cause appearing,

*It is hereby ordered* that the first paragraph of the order of September 26, 1916, in the above-entitled proceeding be and the same is hereby amended to read as follows:

"1. The time within which Vallejo Electric Light and Power Company shall reconstruct its existing system so as to comply

completely with the provisions of chapter 499, laws of 1911, as amended by chapter 600, laws of 1915, is hereby extended to and including December 31, 1917."

In all other respects the order of September 26, 1916, in the above-entitled proceeding shall remain in full force and effect.

Dated at San Francisco, California, this fifteenth day of November, 1917.

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DECISION No. 4845.

IN THE MATTER OF THE APPLICATION OF WILLIAM S. VAN HOOSEAR AND MARGARET F. VAN HOOSEAR FOR PERMISSION TO DISCONTINUE THE SUPPLYING OF WATER TO A NUMBER OF PERSONS LIVING IN CASTRO VALLEY, ALAMEDA COUNTY, CALIFORNIA.

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Application No. 3184.

*Decided November 15, 1917.*

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Parties who have developed a supply of water upon a ranch which they own and have constructed distributing mains through which they supply water to some sixteen consumers, will not be permitted to discontinue such service on the sole grounds that it would be to their financial advantage to devote all of their supply of water to the uses of their own ranch.

Petition of applicants, operating a small water utility near the town of Hayward, to discontinue service, denied.

*W. B. Rinehart and H. S. Craig, for Applicants.*

BY THE COMMISSION.

**OPINION.**

Wm. S. Van Hoosear and Margaret P. Van Hoosear, his wife, apply for authority to discontinue the service of water for domestic purposes to fifteen or sixteen consumers in Castro Valley, about two and one-half miles from Hayward, Alameda County.

A public hearing in the matter was held by Examiner Westover at Hayward on November 2, 1917.

In 1905 applicants purchased a ranch containing about thirty acres on which were located three small springs. They developed the springs into storage wells, sank a fourth well or cistern for storage purposes, and conveyed the water through about 6,000 feet of pipe to their home.

In 1907 they laid about 200 feet of three-quarter-inch pipe underground and began service to a neighbor. In July, 1908, applicants laid about 1,800 feet of one-inch pipe underground and began service to five or six neighbors who had wells but a limited supply of water. Other neighbors subsequently became consumers until now applicants furnish water through about sixteen services.



All consumers have been served at the uniform rate of 75 cents per month minimum, for 1,500 gallons of water, the same rate being applied to excess use. One consumer, however, was supplied with water free for about three years but has been charged for the service since September, 1916.

Applicants rely largely upon the fact that in conversation with a number of the present consumers or their predecessors in title, it was stated that the service was expected to be temporary until the consumers could dig wells. In no case, however, was a definite period fixed in the beginning, when the service should cease. In a number of instances no discussion was had in reference to the permanent or temporary character of the service.

In these discussions, consumers were notified that water could be supplied for domestic purposes only, and not for irrigation. The water is used for cooking and household purposes, in some cases for growing a few flowers, and in others, for several hundred chickens. The services are metered and no complaint is made as to waste of water. The amount of water developed by applicants' springs and wells is roughly estimated from the testimony to be about 750 cubic feet per twenty-four hours. A number of the consumers have wells designed to supply irrigation water for small areas, usually not exceeding a quarter or half acre.

Applicants desire to discontinue service so that they may sell their ranch to better advantage through being able to devote all of their limited water supply to irrigation service on their ranch. Nearly all of the present consumers desire to retain the present service from applicants' springs because the water is soft and superior in quality to that obtained from their own wells. In several instances consumers have no wells or other possible source of supply without carrying water in buckets from neighbors.

The utility serving water nearest this territory is the Hayward Water Company serving Hayward. The distance between its pipes and applicants' is about 2.7 miles. The average depth of wells in the vicinity where applicants are serving is about 45 to 50 feet, the most of this depth having to be blasted in solid rock. The depth of the top soil varies from 2 to 10 feet.

In view of the fact that a number of applicants' consumers have no other adequate source of supply and that several of them have provided storage facilities relying upon water service from applicants, and as applicants do not at present propose to furnish any other supply in lieu of that from their present property, the application must be denied.

#### ORDER.

William S. Van Hoosear and Margaret P. Van Hoosear having applied to the Railroad Commission for authority to discontinue the

service of domestic water to certain consumers in Castro Valley, Alameda County, and a public hearing having been held thereon, and it appearing to the commission that for the reasons set forth in the opinion preceding this order, the application should be denied,

*It is hereby ordered* that the application to discontinue said service be and it is hereby denied.

Dated at San Francisco, California, this fifteenth day of November, 1917.

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DECISION No. 4846.

IN THE MATTER OF THE APPLICATION OF MIDLAND COUNTIES  
PUBLIC SERVICE CORPORATION FOR AN ORDER AUTHORIZING  
THE ISSUE OF BONDS.

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Application No. 2837.

*Decided November 15, 1917.*

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Applicant, having heretofore been authorized to issue \$232,000.00 face value of bonds in connection with an application for permission to issue \$387,000.00 for additions and betterments, applies for and is now granted permission to issue an additional \$110,000.00 face value to be sold at not less than 95 or pledged to secure notes, the proceeds thereof to be used in the discharge of notes payable.

THELEN, *Commissioner.*

**THIRD SUPPLEMENTAL ORDER.**

Whereas Midland Counties Public Service Corporation on August 23, 1917, filed with the Railroad Commission its supplemental petition in the above-entitled matter in which it requests in effect that the commission modify its order in Decision No. 4369, dated June 2, 1917, so as to permit petitioner herein to issue \$387,000.00 face value of bonds instead of \$232,000.00 as authorized by the commission's decision; and

Whereas it appears, in view of the additional evidence submitted by petitioner at the public hearing held herein on August 29, 1917, and of the report of the engineering department of the Railroad Commission on file herein, that applicant may now be authorized to issue \$110,000.00 of bonds in addition to the \$232,000.00 of bonds heretofore authorized to be issued,

*It is hereby ordered* that Midland Counties Public Service Corporation be and it is hereby granted authority to issue \$110,000.00 face value of bonds, on the following conditions and not otherwise:

1. The bonds herein authorized to be issued shall be sold so as to net petitioner not less than 95 per cent of their face value plus accrued interest, in cash.

2. In lieu of selling the bonds herein authorized to be issued, petitioner may pledge the same to secure the payment of notes; pro-

vided, that the face value of the notes secured by said bonds shall never be less than 80 per cent of the face value of the bonds pledged; provided, further, that if required by law, applicant shall secure authority from the Railroad Commission to issue the notes, the payment of which is to be secured by bonds herein authorized to be pledged.

3. The proceeds obtained from the sale of the bonds or from the issue of the notes, the payment of which is to be secured by the pledging of the bonds, shall be used to pay in part the notes listed in "Exhibit A" attached to the supplemental petition herein filed on October 5, 1917.

4. Midland Counties Public Service Corporation shall keep separate, true and accurate accounts showing the receipt and application in detail of the proceeds of the sale of the bonds herein authorized to be issued; and on or before the twenty-fifth day of each month the company shall make verified reports to the commission stating the sale or sales of said bonds during the preceding month, the terms and conditions of the sale, the moneys realized therefrom, and the use and application of such moneys, all in accordance with this commission's General Order No. 24, which order, in so far as applicable, is made a part of this order.

5. The authority herein granted is conditioned upon the payment by petitioner of the fee prescribed in the Public Utilities Act.

6. The authority herein granted shall apply only to such bonds as shall have been issued on or before August 1, 1918.

The foregoing third supplemental order is hereby approved and ordered filed as the third supplemental order of the Railroad Commission of the state of California.

Dated at San Francisco, California, this fifteenth day of November, 1917.

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DECISION No. 4847.

CITY OF PACIFIC GROVE

*vs.*

COAST VALLEYS GAS AND ELECTRIC COMPANY.

Case No. 684.

IN THE MATTER OF THE APPLICATION OF COAST VALLEYS GAS AND ELECTRIC COMPANY FOR A DETERMINATION OF THE VALUE OF ITS PROPERTIES AND A REVISION AND DETERMINATION OF ITS GAS, ELECTRIC AND WATER RATES.

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Application No. 1876.

*Decided November 16, 1917.*

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1. When the development of a utility has been marked by a considerable number of reorganizations, in considering a claim for organization expenses the commission

will first have to determine what duplication of expenses was incurred in the cost of previous organizations and the necessity for and benefits derived through the formation of each succeeding company.

2. A utility still in the development stage should not expect a full return upon its investment, especially when rates permitting such a return are limited by the value of the service to consumers and it is necessary to establish an attractive rate for the purpose of developing new business which will eventually provide the return to which the utility is entitled.
3. The commission, after allowing maintenance and operating expenses, a reasonable depreciation annuity and a fair return upon the investment, will not allow an additional amount for the amortization of bond discount and expense, such item being considered as a part of the cost to the utility of obtaining its money, and is properly included in the rate of return.
4. A reasonable depreciation annuity found for the different classes of business of respondent is established as follows: 6 per cent sinking fund for electric division, 5 per cent sinking fund for water division and 4 per cent sinking fund for gas division.
5. A utility which requires a deposit of \$1.00 as service charge, such amount to be returned if service is continued for a period of one year, is justified in collecting such charge when it can not be shown that the permanent population is desirous of absorbing such item of expense in the regular rates, for, it is held to be more equitable that such expense should be borne directly by the transient population for whose benefit it is incurred.
6. It is held to be reasonable for a utility to require the signing of a contract before rendering service to consumers in unincorporated territory, especially where, owing to sparsely settled conditions, it is necessary for the utility to make lengthy extensions for the purpose of serving few consumers and it is accordingly entitled to a guarantee of continued service before making the investment.
7. Respondent, when requiring a consumer to sign a contract for service, must include therein a statement to the effect that such contract is subject to change or abolition, under equitable conditions, by the Railroad Commission.
8. Though practically all utilities are operating under abnormal conditions and at an increased expense due to the national crisis, they can not expect that all the burden so created be shifted to the consumers; the utilities themselves will be required to bear a fair portion thereof.
9. Revised schedule of rates, rules and regulations established to be filed on or before November 30, 1917, covering electric, gas and water service of respondent in unincorporated and incorporated territory in Monterey County.

*Chickering & Gregory, and George H. Whipple, for Coast Valleys Gas and Electric Company.*

*J. H. Andresen, for city of Salinas.*

*Carmel Martin, for city of Monterey.*

*H. G. Jorgensen, for city of Pacific Grove.*

*Hugh R. Osburn, for King City.*

*P. E. Zabala and F. W. Sargent, for Arroyo-Seco-Todos-Santos Land and Investment Company.*

*Hudson, Martin & Jorgensen, for David Jacks Corporation.*

DEVLIN, *Commissioner.*

#### OPINION.

The complaint of the city of Pacific Grove alleges that the gas rates charged by the Coast Valleys Gas and Electric Company in that city

are exorbitant and unreasonable, and requests that just and reasonable rates be fixed by the commission.

After hearings had been held in this complaint and the matter had been submitted, and before a decision could be rendered, the Coast Valleys Gas and Electric Company, hereinafter referred to as the Coast Valleys company, filed its Application No. 1876, wherein the commission is asked to determine the fair value of all of its properties as to both physical and intangible elements; a fair rate of return thereon; reasonable operating expenses, depreciation annuity and annual additions to sinking fund; and just and reasonable rates to be charged by Coast Valleys company to all of its consumers for electricity, gas and water.

Extended hearings were held during which evidence was submitted covering all phases of this matter, whereupon the same was submitted on briefs, which have now been filed. By consent of all parties these proceedings were consolidated for hearing and decision, and it was stipulated that evidence taken by the commission in previous cases should be considered in evidence herein, together with reports and data filed subsequent to the submission hereof, in so far as they may be pertinent to the present proceedings.

The subject matter of this opinion will now be considered under the following heads:

- I. COAST VALLEYS GAS AND ELECTRIC COMPANY AND ITS PREDECESSORS.
- II. TERRITORY SERVED.
- III. STOCKS, BONDS AND NOTES.
- IV. FINANCIAL STATEMENT.
- V. ELECTRIC PROPERTIES AND CONSUMERS.
- VI. GAS PROPERTIES AND CONSUMERS.
  1. Salinas District.
  2. Monterey and Pacific Grove District.
- VII. WATER PROPERTIES AND CONSUMERS.
  1. Salinas District.
  2. King City District.
- VIII. RATES.
  1. Existing Rates.
  2. Rate Base :
    - (a) Reproduction Cost—Electric Department.
    - (b) Reproduction Cost—Gas Department.
    - (c) Reproduction Cost—Water Department.
    - (d) Reproduction Cost—All Departments.
    - (e) Investment—All Departments.
  3. Fair Return.
  4. Operating Expenses.
  5. Depreciation Annuity.
  6. Readjustment of Rates :
    - (a) Electric Rates.
    - (b) Gas Rates.
    - (c) Water Rates.

## I.

**Coast Valleys Gas and Electric Company and its Predecessors.**

The Coast Valleys Gas and Electric Company was incorporated under the laws of California on March 18, 1912, and is the successor of a number of public utility corporations theretofore operating in Monterey County. The first in point of time of these utilities was the Salinas City Gas and Water Company, which was incorporated on May 4, 1875, for the purpose of serving gas and water within the city of Salinas, and its activities were extended to include the service of electricity on October 1, 1888. This property was reorganized in 1896 under the name of the Salinas City Light and Water Company, and was again reorganized in 1902 under the name of the Salinas Water, Light and Power Company, which property was purchased on October 10, 1903, by the Monterey Gas and Electric Company. Monterey Gas and Electric Company had already, on September 1, 1902, acquired the properties of the Monterey Electric Light and Development Company, and on June 25 of the same year had purchased all of the stock of the Monterey and Pacific Grove Railways. The combined properties were reorganized in the latter part of 1903 under the name of the Monterey County Gas and Electric Company, the actual transfer taking place on October 10.

In November, 1911, the water system in the city of Salinas was separated from the rest of the properties owned by the Monterey County Gas and Electric Company and was operated thereafter as the Salinas Valley Water Company. At the same time the other holdings of the Monterey County Gas and Electric Company were transferred to the California Consolidated Light and Power Company, a corporation formed on July 7, 1911, for this purpose. In March, 1912, Coast Valleys Gas and Electric Company was incorporated and took over the properties of both the Salinas Valley Water Company and the California Consolidated Light and Power Company, and in May of the same year acquired the properties of the King City Water, Light and Power Company, a utility which had been serving that community with water and electricity since October, 1908.

## II.

**Territory Served.**

Coast Valleys Gas and Electric Company supplies electricity in the cities of Salinas, Monterey, Pacific Grove, King City and a number of smaller communities in the intervening territory in Monterey County, and also supplies artificial gas in Salinas, Monterey and Pacific Grove, and water in Salinas and King City.

## III.

## Stocks, Bonds and Notes.

The articles of incorporation of the Coast Valleys company provide for an issue of common stock of the par value of \$3,000,000.00 and preferred stock of the par value of \$2,000,000.00. All of the stock so authorized has been issued and is now outstanding. The record shows that on December 31, 1916, there were outstanding in the hands of the public as obligations against the Coast Valleys company first mortgage, forty-year, gold bonds of a total face value of \$900,000.00. These bonds bear interest at the rate of 6 per cent per annum. On December 31, 1916, Coast Valleys company had outstanding notes payable of the face value of \$40,000.00. On the same day the company had other current liabilities amounting to \$69,921.56. Various reserve accounts on the same day amounted to \$55,211.76.

## IV.

## Financial Statement.

Table No. I presents the balance sheet of the company as of December 31, 1916, compiled from the company's annual report to the commission for the year ending December 31, 1916, as adjusted in accordance with the findings of the commission's auditing department on fixed capital and book entries of plant appreciation, reported under date of May 31, 1916.

TABLE NO. I.

*Coast Valleys Gas and Electric Company Comparative Balance Sheet,  
December 31, 1916.*

## ASSETS.

Fixed assets:	
Electric capital .....	\$829,717 81
Gas capital .....	194,029 71
Water capital .....	86,737 83
General capital .....	91,093 92
Total fixed assets.....	\$1,201,579 27
Intangible assets:	
Appreciation of properties.....	\$4,593,044 08
Discount of stock.....	218,633 28
Bond discount and expense.....	23,832 75
Total intangible assets.....	\$4,835,510 11
Current assets:	
Cash .....	\$22,182 01
Special deposits .....	540 00
Accounts receivable .....	32,834 47
Material and supplies.....	26,170 54
Prepayments .....	2,091 30
Other expense .....	22,430 12
Total current assets.....	\$106,248 44
Total assets .....	\$6,143,337 82

## LIABILITIES.

<b>Capital liabilities:</b>	
Capital stock -----	\$5,000,000 00
Funded debt -----	900,000 00
Total capital liabilities-----	\$5,900,000 00
<b>Current liabilities:</b>	
Notes payable -----	\$40,000 00
Accounts payable -----	41,777 82
Interest accrued -----	18,540 00
Taxes accrued -----	8,853 74
Service billed in advance-----	750 00
Total current liabilities-----	\$109,921 56
<b>Reserves:</b>	
Reserve for accrued depreciation-----	\$51,045 59
Reserve for casualty and insurance-----	4,166 17
Total reserves -----	\$55,211 76
Corporate surplus -----	\$78,204 50
Total liabilities -----	\$6,143,337 82

The gross revenue, operating expenses and net income of Coast Valleys company for the year ending December 31, 1916, as shown in the company's annual report to the commission, are as follows:

TABLE NO. II.

*Recapitulation of Income, Revenues and Expenses Coast Valleys Gas and Electric Company—1916.*

	Electric.	Gas.	Water.	Total.
<b>Revenues:</b>				
Operating revenue -----	\$176,047 02	\$52,978 28	\$23,002 96	
Mdse. and jobbing revenue---	1,422 40	-----	-----	
Total revenue -----	\$177,469 42	\$52,978 28	\$23,002 96	\$253,450 66
<b>Operating expenses:</b>				
Production -----	\$68,688 75	\$22,960 55	\$8,858 63	
Transmission -----	5,174 43	-----	-----	
Distribution -----	10,448 80	5,415 61	2,392 89	
Commercial -----	7,080 09	2,658 24	1,797 45	
General and miscellaneous---	503 52	5,616 66	3,510 71	
Taxes -----	9,700 82	2,519 56	2,284 45	
Depreciation of capital-----	6,664 32	6,238 34	3,159 03	
Total operating expenses---	\$108,260 73	\$45,408 96	\$22,003 16	175,672 85
Net operating revenue-----	\$69,208 69	\$7,569 32	\$999 80	\$77,777 81
<b>Nonoperating revenues:</b>				
Rents -----	-----	-----	\$826 65	
Dividend revenues -----	-----	-----	44 55	
Miscellaneous nonoperating revenue-----	-----	-----	141 69	
Total nonoperating revenue-----	-----	-----	-----	\$1,012 89
Gross corporate income-----	-----	-----	-----	\$78,790 70



## Deduct:

Uncollectible bills .....	\$222 91
Miscellaneous nonoperating expenses.....	157 05
Interest on funded debt.....	54,000 00
Other interest deductions.....	4,138 15
Amortization of debt discount and expense.....	697 55
Total deductions .....	59,215 66
Balance for year carried to surplus.....	\$19,575 04

## V.

**Electric Properties and Consumers.**

The electric properties consist of a modern 1,000-kilowatt steam plant at Monterey and two small plants of 300 and 75 kilowatt capacity located at Salinas and King City, respectively, and a transmission system consisting of 45.31 miles of 33-kilovolt pole line between Salinas and King City and 20.25 miles of 22-kilovolt pole line between Salinas and Monterey. Power is purchased from the Sierra and San Francisco Power Company at Salinas where a 3,000-kilowatt substation is located. The Monterey steam plant is operated as an auxiliary. The distribution system consists of 2,200- and 4,000-volt lines aggregating approximately 200 miles in length. The following table shows the number of consumers, connected load and sales for the year 1916, segregated as to classes:

TABLE NO. III.

*Consumers' Connected Load and Sales Electric Department.*

	Consumers	Connected load.	Sales 1916.
Residence and commercial lighting.....	3,408	2,430.3 k.w.	1,164,725 k.w. h.
Municipal lighting .....	25	136.0 k.w.	271,500 k.w. h.
Industrial power .....	195	2,145.6 h.p.	3,956,244 k.w. h.
Agricultural power .....	88	3,618.0 h.p.	-----
Company use .....			613,297 k.w. h.
Total .....	3,716		6,005,766 k.w. h.

## VI.

**Gas Properties and Consumers.**1. *Salinas District.*

The properties used in connection with gas service in Salinas consist of an artificial gas production plant of approximately 400,000 cubic feet daily output capacity, and a low pressure distributing system consisting of 13 miles of mains serving about 680 consumers. The sales in this district during the year 1916 were 12,639,800 cubic feet.

2. *Monterey and Pacific Grove District.*

The Monterey gas system consists of an artificial gas production plant located in that city, and a combination of low and high pressure

distribution systems aggregating 37.5 miles of mains serving the two cities of Monterey and Pacific Grove. There were 1,212 consumers reported as being connected on December 31, 1916. This number increases materially during the summer on account of the transient consumers drawn to Pacific Grove by reason of its being a summer resort. Approximately 218 such consumers were served during the past season. The total sales during 1916 were 27,244,300 cubic feet.

## VII.

### Water Properties and Consumers.

#### 1. *Salinas District.*

This system obtains its supply from wells. Some water is pumped directly into the distribution system, but the greater part is lifted into elevated wooden tanks before being distributed. The principal pumping plant is located near the business district, two smaller plants in the outskirts of town being operated intermittently as auxiliaries. Storage is effected by means of two 50,000-gallon tanks and one 10,000-gallon tank. The distribution system consists of sixteen miles of pipe, of which nine miles are cast iron. There are 1,282 services connected, of which only 36 are metered. The original system was installed about the year 1875. This was rebuilt almost entirely in 1902; 1,035 consumers were served in 1916.

#### 2. *King City District.*

Water for this system is pumped from a single well located about a mile from the town. A 50,000-gallon wooden tank takes its supply from the general system and is generally held in reserve. There is no auxiliary pumping equipment and the tank does not fill nor empty into the system automatically. The distribution laterals are connected with the principal 6-inch main at various points and consumers are served through 204 service connections, none of which are metered; 212 consumers were served in 1916.

## VIII.

### Rates.

#### 1. *Existing Rates.*

Some of the existing rates of the Coast Valleys company have heretofore been established by this commission upon complaint of the several principal municipalities which it serves. The city of Salinas called into question its rates for electric lighting and power in Case No. 495, and just and reasonable rates for this service were determined by the commission's Decisions No. 1759 and No. 1973, Opinions and Orders of the Railroad Commission of California, Volume V, pages 318 and 788, decided August 28, 1914, and November 30, 1914, respectively.

The complaint of the city of Monterey in regard to rates charged its inhabitants for gas, being Case No. 499, was disposed of by the establishment of just and reasonable rates for this service as set forth in Decision No. 1630, Opinions and Orders of the Railroad Commission of California, Volume IV, page 1366, decided June 30, 1914.

Similarly electric rates were established for the cities of Monterey and Pacific Grove upon complaint of the former, Case No. 533, by Decision No. 2058, Opinions and Orders of the Railroad Commission of California, Volume VI, page 23, decided January 11, 1915.

Rates for gas service within the city of Salinas were the issue in its complaint, Case No. 648, which was disposed of by Decision No. 2212, Opinions and Orders of the Railroad Commission of California, Volume VI, page 334, decided March 11, 1915.

In its application herein, Coast Valleys company asks that all of these matters be reconsidered at the present time and such readjustments be made as may be found to be reasonable, due regard being given to their relation to the company's business as a whole.

## 2. Rate Base.

### (a) *Reproduction Cost—Electric Department.*

Mr. R. M. Vaughan, assistant engineer of the gas and electric division of the commission, submitted an estimate of the historical reproduction cost of the nonlanded, physical electric properties, and Assistant Engineer V. C. Dickinson reported on the value of lands used by this department. A combination of these reports, together with the estimate of the reproduction cost new submitted by Coast Valleys company, are set forth in the following table:

TABLE NO. IV.

*Estimates of Cost to Reproduce Electric Properties of Coast Valleys Gas and Electric Company—December 31, 1915.*

	Historical Reproduction cost, Vaughan and Dickinson.	Reproduction cost new— Coast Valleys Company.
Lands and franchises-----	\$12,308 00	\$14,411 99
Production -----	174,190 00	185,117 57
Transmission -----	82,953 00	89,024 30
Distribution -----	276,905 00	290,399 20
Municipal street lighting-----	18,445 00	19,405 29
General -----	24,342 00	26,229 95
Total -----	\$589,143 00	\$624,588 30
Nonoperative property -----	18,843 00	19,669 63
Total -----	\$607,986 00	\$644,257 93

The main difference in these estimates lies in the amount of the overhead charges. Mr. Vaughan used an average of 15 per cent while the Coast Valleys company's engineer used an average of 21 per cent.

The latter rate is based on the assumption that the property is to be reproduced as a unit and by contract, although the unit costs to which the overhead is to be added are apparently based upon actual piecemeal construction. The overhead percentage used by the Coast Valleys company's engineer is considerably higher than that found to be proper by this commission in a large number of similar cases where the item is intended to cover only indirect construction charges applicable to such unit costs as have been derived for use in these appraisals.

Subsequent to the introduction of Mr. Vaughan's appraisal, further evidence was submitted by applicant as to the actual cost of certain units of the property. A careful analysis and check of this evidence indicate that some elements of the information originally furnished to Mr. Vaughan were in error, and on this account certain additions should be made to his valuation.

The revised estimate of historical reproduction cost representing fixed electric capital, exclusive of intangibles, but including an addition of \$6,000.00 to the material and supply account, is set forth in Table No. V.

TABLE NO. V.

*Revised Estimate of Cost to Reproduce Electric Properties of Coast Valleys Gas and Electric Company.*

<i>Operative Property.</i>	Revised historical reproduction cost December 31, 1915.	Additions and betterments, eighteen months.	Capital as of July 1, 1917.
Real estate, rights of way and franchises	\$12,308 00	\$15 00	\$12,323 00
Production plant -----	178,784 00	543 00*	178,241 00
Transmission line -----	96,567 00	364 00	96,931 00
Substation -----	46,952 00	2,082 00	49,034 00
Distribution -----	248,057 00	29,733 00	277,790 00
Municipal street lighting -----	18,853 00	1,058 00	19,911 00
General (including material and supplies)	30,342 00	264 00*	30,078 00
Total -----	\$631,863 00	\$32,445 00	\$664,308 00
Nonoperative -----	18,843 00		18,843 00
Total -----	\$650,706 00		\$683,151 00

\*Deduct.

(b) *Reproduction Cost—Gas Department.*

SALINAS.

Three separate estimates of the reproduction cost of the operative gas properties in Salinas were submitted, one by the Coast Valleys company; one by Mr. W. J. Hammond of the commission's gas department introduced in Case No. 648; and a third by Mr. E. S. Bryant, also of the commission's engineering staff, which was made for the purpose of checking and revising the previous estimates. Mr. Bryant was enabled to introduce certain corrections by reason of having made a later and more complete investigation of the matter. Mr. V. C. Dickinson of the commission's land department made an appraisal of

the real estate. Table No. VI shows a comparison between Mr. Bryant's estimate, combined with Mr. Dickinson's, and that of the Coast Valleys company.

TABLE NO. VI.

*Estimated Reproduction Cost of Gas Properties in Salinas.*

	By Coast Valleys Gas and Electric Company, December 31, 1915.	By E. S. Bryant and V. C. Dickinson, December 31, 1915.
Lands -----	\$4,937 50	\$1,843 00
Production capital -----	37,907 51	33,639 00
Distribution mains -----	33,616 68	26,101 00
Distribution services -----	7,113 76	9,216 00
Distribution meters -----	4,574 15	4,975 00
General and miscellaneous equipment -----	2,042 72	1,995 00
Material and supplies -----		1,052 00
Paving over mains and services -----	22,072 40	10,144 00
Total -----	\$112,264 72	\$88,965 00
Nonoperative -----	100 00	820 00
Total -----	\$112,364 72	\$89,785 00

The main differences in the two estimates lie in the items of land values, overhead allowances, paving estimates, cost of mains, and a small difference in the cost of a gas holder tank.

## MONTEREY.

Two estimates of the reproduction cost of the Monterey and Pacific Grove gas properties were introduced in evidence, one by the Coast Valleys company's engineer and one made up of the reports of the commission's engineers, Mr. W. J. Hammond on the physical non-landed properties and Mr. V. C. Dickinson on the real properties.

The two appraisals as finally revised by the respective witnesses and exclusive of the cost of paving over mains, are summarized as follows:

TABLE NO. VII.

*Estimated Reproduction Cost of Gas Properties in Monterey and Pacific Grove.*

	Coast Valleys Gas and Electric Company, December 31, 1915	W. J. Hammond and V. C. Dickinson, April 1, 1915.
Landed capital -----	\$8,333 00	\$8,333 00
Production -----	52,149 00	45,733 00
Distribution mains -----	64,188 00	49,288 00
Distribution services -----	6,852 00	11,166 00
Distribution meters -----	9,364 00	11,848 00
Distribution regulators -----	3,253 00	4,307 00
General capital -----	2,010 00	2,211 00
Material and supplies -----	1,503 00	1,504 00
Total -----	\$147,652 00	\$134,390 00

The main difference in the two valuations lies in the item of overhead, although this does not account for the wide difference in the estimated cost of mains.

The total net additions and betterments for the Salinas and Monterey gas systems which were not reported separately from April 1, 1915, to December 31, 1915, were as follows:

Mains -----	\$1,384 72
Services -----	784 33
Meters -----	598 56
Regulators -----	221 73
Miscellaneous -----	207 50
Total -----	<u>\$3,196 84</u>

I find the costs set forth in Table No. VIII below to be just and reasonable estimates of the reproduction cost of the tangible properties of the Salinas, Monterey and Pacific Grove gas system as of December 31, 1915, with additions and betterments to July 1, 1917.

TABLE NO. VIII.  
*Reproduction Cost New.*

	December 31, 1915		Additions and betterments	Total gas properties as of July 1, 1917
	Salinas	Monterey and Pacific Grove		
Lands -----	\$1,843 00	\$8,333 00		\$10,176 00
Production capital -----	34,239 00	45,770 00	\$34 00	80,043 00
Distribution mains -----	29,641 00	51,015 00	3,787 00	84,443 00
Distribution services -----	9,590 00	12,176 00	1,724 00	23,490 00
Distribution meters -----	4,975 00	12,235 00	1,246 00	18,456 00
Distribution regulators -----		4,529 00	576 00	5,105 00
General -----	1,995 00	2,211 00		4,206 00
Material and supplies -----	1,052 00	1,504 00	944 00	3,500 00
Totals -----	\$83,335 00	\$137,773 00	\$8,311 00	\$229,419 00

(c) *Reproduction Cost—Water Department.*

Two valuations of the water properties in Salinas and King City were submitted, one by the utility and one by Messrs. V. C. Dickinson and M. H. Brinkley of the commission's land and hydraulic divisions, respectively. In the estimates of reproduction cost of the gas and electric properties hereinbefore discussed, I have allowed an overhead percentage somewhat higher than that estimated by Mr. Brinkley, and for the purpose of this proceeding I believe that, inasmuch as the properties were all developed under reasonably comparable conditions, a uniform overhead percentage should be allowed throughout these estimates. For reasons already stated, I have allowed an increase in Mr. Brinkley's estimate of overhead cost, and I have also allowed for the cost of paving over water mains in Salinas the same amount as

found to be proper for the gas system in that city and a slight increase in this item in King City.

The revised estimates of reproduction cost of the tangible water properties of Coast Valleys company are set forth in Table No. IX.

TABLE NO. IX.

*Estimated Reproduction Cost of Water Properties of Coast Valleys Gas and Electric Company as of July 1, 1917.*

	Salinas.	King City.	Total.
Lands -----	\$2,268 00	\$414 00	\$2,682 00
Wells, pumping plant and equipment..	39,911 00	5,690 00	45,601 00
Distribution system -----	67,956 00	15,388 00	83,344 00
General capital -----	1,405 00	645 00	2,050 00
Material and supplies-----	2,500 00	400 00	2,900 00
	<hr/>	<hr/>	<hr/>
	\$114,040 00	\$22,537 00	\$136,577 00

The rates hereinafter provided will be on a meter rather than a flat rate basis, which will entail a material increase in fixed capital for metering equipment not taken into account in the above table.

(d) *Reproduction Cost—All Departments.*

TABLE NO. X.

*Summary of Revised Estimate of Cost to Reproduce Properties of Coast Valleys Gas and Electric Company, all Departments—July 1, 1917.*

	Electric.	Gas.	Water.	Total
Real estate, rights of way and franchises..	\$12,323	\$10,176	\$2,682	\$25,181
Physical plant -----	621,907	211,537	128,945	962,389
General, including material and supplies..	30,078	7,706	4,950	42,734
	<hr/>	<hr/>	<hr/>	<hr/>
Total operative -----	\$664,308	\$229,419	\$136,577	\$1,030,304
Nonoperative -----	18,843			18,843
	<hr/>	<hr/>	<hr/>	<hr/>
Grand total -----	\$683,151	\$229,419	\$136,577	\$1,049,147

In comparison with the above total of \$1,049,147.00 the company's claim for the reproduction cost as of December 31, 1915, plus additions and betterments to July 1, 1917, is approximately \$1,074,400.00.

The foregoing revised estimates of reproduction cost do not include any allowance for organization expense. The only information in the evidence relative to this item is an exhibit submitted by Coast Valleys company which purports to set forth the actual cost of its organization and that of its several predecessor companies, as follows:

Salinas Water, Light and Power Company-----	\$2,399 88
Monterey Gas and Electric Company-----	2,163 00
Monterey County Gas and Electric Company-----	4,478 80
California Consolidated Light and Power Company-----	8,453 63
Salinas Valley Water Company-----	699 78
Coast Valleys Gas and Electric Company-----	18,702 89
King City Water, Light and Power Company-----	704 24
	<hr/>
Total -----	\$37,602 22

In view of the findings herein, it will not be necessary for the commission to pass upon the propriety of the company's claim for organization expense at this time. It should be noted in passing, however, that the growth of these properties has been marked by one reorganization after another, each of which undoubtedly entailed some duplication of the expenses incurred in the cost of previous organizations. Before such a claim could be approved by the commission, it would be necessary to very carefully investigate the necessity for the formation of each of the succeeding companies, and determine what benefit was thereby effected for either the utility itself or the consumers served.

If, however, as claimed by Coast Valleys company, an allowance of \$37,602.00 is proper for organization expenses and if this were added to the foregoing estimate of a reproduction cost of \$1,049,147.00, the total including material and supplies, but exclusive of working capital, would then be \$1,086,749.00.

Another claim is made by Coast Valleys company for an allowance for development expense, or in other words, the losses sustained by the various companies during the early years in which they were engaged in the development of their respective businesses. This claim is based upon a detailed computation for each company, year by year, wherein the actual net return for interest and depreciation over and above operating expenses and taxes is deducted from a so-called "fair return of 8 per cent" on the capital theretofore invested. When this computation for any year results in a deficit, it is capitalized and included in the basis of return for the succeeding year. If the net earnings are in excess of the 8 per cent return assumed, the excess is correspondingly deducted from capital. In this way Coast Valleys company arrives at a so-called "development expense" of \$137,268.00. For reasons hereinafter appearing, it will not be necessary for the commission to pass upon this claim.

(c) *Investment.*

By stipulation, evidence taken by the commission in connection with the previous rate proceedings hereinbefore mentioned, are to be considered as evidence in this proceeding.

Testifying in Case No. 495, Mr. H. F. Jackson, Coast Valleys company's general manager, stated that he had made an analysis of its books of account and as a result of this analysis found that all capital expenditures made by Coast Valleys company and its predecessors for its entire property from the beginning to December 31, 1913, amounted to a grand total of \$1,093,092.00. Mr. Jackson's analysis of the capital expenditures was not segregated as between the electric, gas and water departments.



At the same time, Coast Valleys company presented the following tabulation as showing the cost to it of the property purchased on March 18, 1912, with additions and betterments to December 31, 1913, including an allowance for interest at the rate of 8 per cent per annum on the purchase price of the stock during the period embraced between these two dates:

Underlying bonds -----	\$500,000 00
Floating debt, March 18, 1912-----	207,000 00
Purchase price of stock-----	400,000 00
Expenditures for additions and betterments, March 18, 1912, to December 31, 1913-----	286,137 00
Interest on \$400,000.00, purchase price of stock from March 18, 1912, to December 31, 1913, at 8 per cent per annum	57,250 00
Total -----	<u>\$1,450,387 00</u>

Defendant claims to have paid \$400,000.00 for stock of its predecessor companies. Since \$500,000.00 face value of bonds and a floating debt of \$207,000.00 were outstanding on March 18, 1912, it follows that with the \$400,000.00 actually paid for the stock of the predecessor company, Coast Valleys company paid \$1,107,000.00 for the property, which, according to Mr. Jackson's analysis, had cost at that time not to exceed \$806,955.00. Coast Valleys company acquired this property just prior to the effective date of the Public Utilities Act.

The commission's auditing department has since made a careful analysis of the fixed capital accounts of the Coast Valleys company, as of January 1, 1913, showing in detail the book cost of the capital installed prior to that date by it and each of its predecessor companies, together with the several arbitrary appreciations added thereto by each company. The results of this analysis as reported to the commission under date of May 21, 1916, are set forth in Table XI.

From this table it appears that the actual book cost of all of the properties installed prior to December 31, 1912, was \$1,022,598.96. Table XII shows this statement together with increases for net additions and betterments from January 1, 1913, to June 30, 1917.

TABLE NO. XI.

*Summary of the Fixed Capital Account Prior to January 1, 1913, as Same Appears December 31, 1915, Showing the Book Cost of the Property and Arbitrary Appreciations by Each Company.*

	Electric	Gas	Water	General	Total	Appreciation not shown previous total
Monterey Gas and Electric Company-----	\$124,723 69	\$29,340 32		\$23,482 94	\$177,546 95	\$75,000 00
Salinas Water, Light and Power Company-----	37,340 09	63,747 92	\$13,484 37	15,267 86	159,840 24	
Monterey County Gas and Electric Company-----	321,062 39	71,908 05	28,417 47	40,601 60	462,019 51	286,552 93
Salinas Valley Water Company-----			2,427 10		2,427 10	
F. G. Baum-----	40,782 43				40,782 43	
California Consolidated Light and Power Co-----	12,308 65					
California Consolidated, King City line-----	2,511 00					
California Consolidated, organization-----				8,433 63	23,273 28	
California Consolidated, good will, franchises, etc-----						
Coast Valleys Gas and Electric Company-----	148,892 52	4,272 29	256 75	3,287 89	156,709 45	3,750,000 00
Totals -----	\$687,620 77	\$169,268 58	\$74,615 69	\$91,093 92	\$1,022,598 96	\$4,111,552 93
Total book cost all companies to December 31, 1912-----						\$1,022,598 96
Total appreciation all companies to December 31, 1912-----						4,111,552 93
Total additions by California Consolidated and Coast Valleys Co.-						\$5,134,151 89
Balance December 31, 1912-----						481,491 15
						\$5,615,613 04

TABLE No. XII.

*Book Cost of the Property of Coast Valleys Gas and Electric Company as of June 30, 1917—Fixed Capital Account.*

	Prior to January 1, 1913.	Additions and betterments, January 1, 1913, to June 30, 1917.	Total June 30, 1917.
Electric -----	\$687,629 77	\$157,400 73	\$845,021 50
Gas -----	169,268 58	27,543 11	196,811 69
Water -----	74,615 69	13,411 89	88,027 58
General -----	91,093 92	7,408 33*	83,685 59
Total -----	\$1,022,598 96	\$190,947 40	\$1,213,546 36

The difference between the reported investment as shown in Table No. XII, and the total estimate of the reproduction cost of the same properties as hereinbefore set forth, may be accounted for, in part, by the difference in material and labor costs to the several smaller companies by whom a considerable part of these properties were built, as compared to the more advantageous prices which Coast Valleys company was enabled to obtain by reason of its larger operations. The units used in making the estimate of reproduction cost were derived from actual records of expense involved in the construction of certain typical units built by the Coast Valleys company itself.

Having considered all the circumstances of this case, and the elements of value which attach to the properties of Coast Valleys Gas and Electric Company, as used and useful in the service of its consumers, I find that the investment of \$1,213,146.36 in fixed capital, as set forth in Table No. XII, is a just and reasonable basis to be used for rate-fixing purposes.

In addition to the original investment in its physical landed and nonlanded properties and material and supplies, Coast Valleys company is entitled to an allowance for working cash capital of \$26,600.00.

### 3. *Fair Return.*

I believe that Coast Valleys company should, except for the limiting conditions now existing, be allowed a return of 8 per cent per annum for interest on its investment, as has been allowed by the commission in many somewhat similar cases. After a careful consideration of all the evidence, however, it is clear that Coast Valleys company is still in the development stage, and, in my opinion, it would be unreasonable for the company to expect rates which, under present conditions, would yield a return of 8 per cent on its investment, even if it were possible to secure business under such rates. Recognizing the difficulties to be met by reason of the limitation imposed by the value of the service, the rates hereinafter established are designed to encourage a further

\*Credits.

development of new business which it is believed will eventually result in the full realization by Coast Valleys company of the full return on its investment to which it may then be entitled.

Coast Valleys company urges that it should be allowed, in addition to its operating expenses, sufficient revenue to amortize discount and expenses involved in obtaining money through the sale of both its own bonds and those of its predecessors in interest.

An exhibit was introduced indicating that the predecessor companies had issued a total of \$500,000.00 par value of bonds, and that the discount and expense in connection therewith amounted to \$47,569.00. Against this amount Coast Valleys company has credited \$26,175.00 by saving in repurchasing the securities below par at the time they were retired in 1912. Coast Valleys company itself has issued \$900,000.00 par value of bonds, the discount and expense in connection therewith being \$52,743.00.

The commission, after allowing maintenance and operating expenses and a reasonable annuity for the normal depreciation of the depreciable elements of a utility's properties, and a fair return on its investment, has not heretofore found it proper to allow any additional amount for the amortization of bond discount and expense. In my opinion this expense is clearly a part of the cost to the utility of obtaining its money, and is properly included in the rate of return.

A careful analysis of the financial history of the Coast Valleys company and its predecessors indicates that the average cost of bond money, prior to the formation of the Coast Valleys company, was 6.19 per cent, and that the average cost to the Coast Valleys company itself has been 6.41 per cent, the average throughout the history of these properties being 6.33 per cent.

Bearing in mind the fact that it will be necessary for Coast Valleys company to secure large additional sums of money in order to fully develop the territory served by it, and in view of the cost of bond money, I am of the opinion that the return which will be realized from the rates herein established is reasonable, and will be sufficient to enable Coast Valleys company to obtain the additional capital necessary to carry on and develop its business.

#### 4. *Operating Expenses.*

Table No. XIII shows the operating expenses of Coast Valleys Gas and Electric Company, as shown in the company's annual reports for the years ending December 31, 1914, 1915, 1916 and the first six months of 1917.

TABLE No. XIII.

*Operating Expenses of Coast Valleys Gas and Electric Company—January 1, 1914,  
to June 30, 1917.*

	1914	1915	1916	6 months, 1917
<b>Electric department—</b>				
Production .....	\$62,785 82	\$60,205 29	\$68,688 75	\$38,437 90
Transmission .....	2,049 47	2,765 03	5,174 43	3,413 46
Distribution .....	8,021 05	8,400 96	10,448 80	7,047 18
Commercial .....	5,746 38	5,257 63	7,080 09	3,583 92
General† .....	3,007 00	*127 61	503 52	5,866 92
Taxes .....	8,152 75	9,973 86	9,700 82	6,279 84
<b>Totals, electric department.....</b>	<b>\$89,762 47</b>	<b>\$86,475 16</b>	<b>\$101,596 41</b>	<b>\$64,629 22</b>
<b>Gas department—</b>				
Production .....	\$20,244 30	\$20,407 82	\$22,960 55	\$14,590 49
Transmission .....	1 50			
Distribution .....	3,678 91	4,340 98	5,415 61	2,227 30
Commercial .....	2,717 34	5,123 47	2,658 24	1,548 29
General .....	6,150 97	5,758 37	5,616 66	2,828 28
Taxes .....	2,095 81	2,681 54	2,519 56	1,652 65
<b>Totals, gas department.....</b>	<b>\$34,888 83</b>	<b>\$38,312 18</b>	<b>\$39,170 62</b>	<b>\$22,847 01</b>
<b>Water department—</b>				
Pumping expense .....	\$8,735 28	\$8,776 87	\$8,858 63	\$3,770 65
Distributing .....	1,243 87	2,391 22	2,392 89	921 19
Commercial .....	1,973 91	1,752 11	1,797 45	972 62
General .....	3,944 16	3,701 79	3,510 71	1,842 97
Taxes .....	1,854 79	2,284 65	2,284 45	1,190 67
<b>Totals, water department.....</b>	<b>\$17,752 01</b>	<b>\$18,906 64</b>	<b>\$18,844 13</b>	<b>\$8,698 10</b>
<b>Grand totals .....</b>	<b>\$142,408 31</b>	<b>\$143,693 98</b>	<b>\$159,611 16</b>	<b>\$96,174 33</b>

\*Deduction.

†General expenses here shown appear to be abnormally low, because approximately \$11,000.00 per annum is credited to the electric department for power delivered to other departments, which credit is thrown into this account.

I find nothing in the evidence to indicate that any of the expenses as shown in this table are unreasonable.

Certain additional expenses, however, will be experienced by Coast Valleys company in the immediate future.

Abnormally increased costs of labor, materials and fuel may be expected to materially affect operating expenses. It is, of course, impossible to predict definitely the extent of such increases. It is, however, safe to assume that this company's expenses will probably be increased by from \$10,000.00 to \$15,000.00 during the next year.

Any increase in electric business such as it is hoped may be realized will necessitate a considerable addition to capital, inasmuch as the company's transmission system is now practically fully loaded so that an increase in load will require the reinforcement of its transmission lines.

In the gas department expenses the high prices that have recently prevailed in the fuel oil market are very seriously reflected.

The average price paid for oil purchased in 1916 was 82.3 cents per barrel at Monterey and 92.4 cents at Salinas. The company is now paying \$1.55 per barrel for oil delivered at Monterey and \$1.65 at Salinas, and even assuming a lower consumption of oil per thousand cubic feet of gas sold, which I believe the company should be able to achieve, the increase in this item of expense alone will amount to 21 cents per thousand cubic feet in Monterey and Pacific Grove.

Since 1916 the gross revenue tax levied by the state on gas utilities has been increased from 5.25 per cent to 5.6 per cent.

To offset these increases in expense, it may be possible to effect some economies in the general administration of the Salinas gas department, and it should be possible for Coast Valleys company to produce gas with a somewhat lower requirement of oil per thousand cubic feet than was indicated by its 1916 operations.

Water department expenses will, in all probability, be increased by reason of certain improvements in service which are contemplated in the immediate future. Other capital additions will also be necessary, inasmuch as the water rates herein established are based on metered service which will require a material investment in meters.

Coast Valleys company has drawn the commission's special attention to certain abnormal expenses incurred in connection with appraisals of its property, and the cost of rate litigation for the amortization of which the commission is asked to make allowance in setting up operating expenses. An examination of the company's accounts indicates that this expense is being written off regularly in reasonable amounts, which are included in the foregoing statement of operating expenses.

With the exceptions noted, I find that Coast Valleys company's operating expenses of the past several years may be taken as a fair indication of those that may be expected in the immediate future.

##### 5. *Depreciation Annuity.*

The rates herein established should, of course, yield a revenue sufficient to enable the Coast Valleys company to set aside a reasonable depreciation annuity.

I find that a just basis to be adopted herein for estimating this annuity, bearing in mind the rate base and the rate of return which may be expected from the several departments, is that of the 6 per cent sinking fund for the electric, 5 per cent sinking fund for the water, and 4 per cent sinking fund for the gas departments.

Applying reasonable estimates of expected life to the various elements of the properties, I find that the sum of \$23,240.00 is a fair depreciation

annuity to be allowed herein. The general items which make up this total appear in Table No. XIV below:

TABLE NO. XIV.

*Depreciation Annuity Coast Valleys Gas and Electric Company—All Departments.**Electric Department.*

Production capital .....	\$3,030 00
Transmission capital .....	1,939 00
Substation capital .....	899 00
Distribution capital .....	7,760 00
Street lighting capital .....	925 00
General capital .....	630 00

Total electric capital .....	\$15,183 00
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*Gas Department.*

Production capital .....	\$1,921 00
Distribution capital .....	4,208 00
General capital .....	388 00

Total gas capital .....	\$6,517 00
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*Water Department.*

Pumping capital .....	\$800 00
Distribution capital .....	630 00
General capital .....	110 00

Total water capital .....	\$1,540 00
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Total all departments .....	\$23,240 00
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6. *Readjustment of Rates.*(a) *Electric Rates:*

An analysis of Coast Valleys company's electric operations and revenues for the past two years indicates that it has earned somewhat less than 8 per cent on the actual investment which has been considered a proper rate base herein.

As already mentioned, the electric rates herein established will embody certain readjustments calculated to encourage increases in the company's business, which, we believe, will eventually be reflected in the realization by it of the full return of 8 per cent.

An optional combination lighting, cooking and heating rate will be fixed throughout the company's territory, which should be very advantageous to residence consumers who desire cooking and heating service.

Certain realty dealers in Pacific Grove have urged the commission to eliminate the one dollar service charge which was heretofore established by the commission's order in a previous proceeding. This charge, which is paid by all consumers when connected to the company's lines, and which is refunded if the consumer continues to be so

connected for a period of 12 months, is designed to cover the costs to the company of numerous connections and disconnections and special billings for transient consumers.

I am not convinced that the permanent population of Pacific Grove is desirous of absorbing this item of expense in the general rates for service in that territory, and I am still inclined to believe that it is more desirable to have this expense borne by the transient population for whose benefit it is occasioned, than through higher rates to permanent consumers. For the reasons indicated, the present charge will be retained in the rates found to be proper and reasonable herein. However, if it is the desire of the majority of these inhabitants of Pacific Grove who are users of gas and electricity to have this charge eliminated and the rates adjusted accordingly, the same may be brought to the attention of the commission in a separate proceeding.

The "discounts for size of installation" included in the schedules of rates for power, are designed to properly allocate the saving in expense which the company realizes by being able to serve large installations at a single point.

The gross revenue discounts are designed to encourage and give proper credit for the decreased cost of a more extensive and continuous use of the company's electric service.

The "service plus energy" form of power rate herein established is materially lower under similar circumstances than the noncontract block system power rate, and in consideration of this advantage all consumers receiving service under the "service plus energy" rate will be required to sign a contract for not less than six months' service per year.

It appears that a large proportion of the territory served by Coast Valleys company, and which lies outside of incorporated towns, is as yet sparsely settled and that unusually heavy investments must be made by Coast Valleys company, on the average, to construct transmission and distribution lines to serve consumers located therein. Hence, it appears to be entirely reasonable that Coast Valleys company should require the signing of a contract in the first instance by an intending consumer in unincorporated territory, unless the consumer can in some other way adequately protect the company against loss from an early discontinuance of the service.

One of the chief causes of complaints against the requirement of certain utilities that contracts be signed, is that consumers signing such contracts generally do not know that redress lies in an appeal to the Railroad Commission in case the terms of the contract prove to be unjust or unreasonable. In order to remove this source of complaint,



Coast Valleys company should insert in all its contracts for service, the following words:

"It is understood by and between the parties hereto that this agreement is merely in the nature of a regulation and is subject at all times, after proceedings duly had, to change or abolition by the Railroad Commission of the state of California."

The city of Salinas has recently entered into an agreement with Coast Valleys company for service to an electrolier system of street lighting in the business district of that city, with the understanding that the rates therein contained be subject to consideration by the commission in this proceeding. It was stipulated that any subsequent report submitted by the commission's engineering staff should be considered in evidence. After a careful analysis of the engineer's report on these rates, I find them to be substantially in accord with the cost of the service, and they will be included among the schedules established herein.

There is a contract in effect covering street lighting service in King City which will expire in July, 1918. The charges thereunder are \$2.50 per month for each of thirty-seven 100-candle power incandescent lamps. Free service is furnished for lighting five streamers of twenty, 8-candle power lamps each, for two hours on Saturday nights. No evidence was introduced bearing specifically on this contract, but, in order to obtain uniformity, I find that this service should be furnished at the same rates as are herein established for the public outdoor lighting in other towns served by Coast Valleys company. The streamers should be metered and charged for at regular lighting rates, or be given an equivalent flat rate if metering is not found to be feasible. The net result will be some reduction below the existing contract rates, but will provide the revenue necessary to justify the maintenance of this service.

(b) *Gas Rates.*

A study of the operations of the Coast Valleys company's gas department during the years 1915 and 1916, indicates that its net return for interest on its investment in gas properties, after deducting depreciation, has been approximately 2 per cent in the Salinas district and between 4 and 5 per cent in the Monterey and Pacific Grove district.

As has heretofore been pointed out the gas business will be subject to material increases in operating expenses in the immediate future on account of the general increase in the cost of labor, fuel oil and other materials, due to abnormal conditions.

The commission, while mindful of this fact, and giving it full consideration in considering the revision of utility rates to take care of

such abnormal operating expenses brought about by the present national crisis, is convinced, however, that it is neither logical, equitable or necessary that all of the burden so created should be shifted to the consumers, but a fair portion of such burden should be shared by the utilities. In the present case, however, I believe that the utility should be granted rates which are calculated to result in a net return which will be at least approximate to the cost of money. To accomplish this result would require an advance in the price of gas at Monterey and Pacific Grove of 10 cents per thousand cubic feet, and at Salinas of approximately 20 cents over and above such increase as is necessitated by the higher cost of oil. It is my opinion that the realization of this advance in Salinas is a commercial impossibility due to the limiting conditions imposed by the value of the service to the consumer. The rates charged heretofore by the Coast Valleys company for gas service are as follows:

SALINAS AND PACIFIC GROVE.

First 2,000 cubic feet per month.....	\$1.50 per 1,000 cubic feet
Next 2,000 cubic feet per month.....	1.25 per 1,000 cubic feet
Over 4,000 cubic feet per month.....	1.00 per 1,000 cubic feet
Minimum charge, 50 cents per meter per month.	

MONTEREY.

First 5,000 cubic feet per month.....	\$1.30 per 1,000 cubic feet
Over 5,000 cubic feet per month.....	1.00 per 1,000 cubic feet
Minimum bill, 60 cents per meter per month. Connection charge, \$1.00— to be refunded in case service is continued for 12 months.	

A readjustment of these rates will be incorporated in the schedules established by the order herein, which will be somewhat higher and from which it is estimated that the company will realize an average gross revenue per thousand cubic feet sold of \$1.64 in Monterey and Pacific Grove and \$1.75 in Salinas.

(c) *Water Rates.*

An analysis of recent operating expenses in Coast Valleys company's water department reveals the fact that the ratio of the cost for pumping, computed on the basis of normal commercial rates, to the total cost of operation including taxes amounted to 60 per cent in Salinas and 44 per cent in King City. Obviously, a reduction of the pumping requirements will have a very material tendency to reduce the cost of operation. The quantity of water pumped per capita during the year 1915 averaged 225 gallons per day. This is excessive as compared with water used in communities where the consumption is metered. I find, therefore, that a material reduction in water drawn, and in consequence a proportionate reduction in pumping requirements, may be expected from the installation of meters. Coast Valleys company's management has indicated its intention of installing meters as soon as a meter rate has been established, and for this reason no changes in the present flat

rates will be incorporated in the order herein, with the exception of rates for fire service. A special schedule of fire service rates will be established, which are designed to return to the Coast Valleys company the full cost of this particular branch of its service. This rate does not include water for street sprinkling, which will be supplied at regular meter rates.

It is our understanding that Coast Valleys company contemplates certain improvements in its equipment at King City which will eliminate the cause of the service complaints which have been brought to our attention in this proceeding, and I believe, therefore, that no order is necessary in this regard at the present time.

I recommend the following form of order:

#### ORDER.

Public hearings having been held in the above-entitled proceedings, and said proceedings having been submitted and being now ready for decision, the Railroad Commission hereby makes the following findings of fact:

1. The Railroad Commission finds that the rates, rules, regulations, contracts and practices of the Coast Valleys Gas and Electric Company are unjust and unreasonable in so far as they differ from the rates, rules, regulations, contracts and practices herein established.

2. The Railroad Commission hereby finds that the rates, rules, regulations, contracts and practices herein established are just and reasonable rates, rules, regulations, contracts and practices.

Basing its order on the foregoing findings of fact and on each statement of fact contained in the opinion which precedes this order,

*It is hereby ordered* as follows:

1. Coast Valleys Gas and Electric Company is hereby ordered to establish and file with the Railroad Commission, on or before November 30, 1917, the following rates for the respective classes of electric service specified, which rates are found to be just and reasonable rates. These rates shall be made effective at the next regular meter reading dates subsequent to said date of filing.

#### SCHEDULE "A".

*Lighting and Small Motors Within the Corporate Limits of Monterey, Pacific Grove and Salinas.*

#### CHARACTER OF SERVICE.

This schedule applies to all lighting installations within the corporate limits of Salinas, Monterey and Pacific Grove, and includes all lamp socket appliances. The consumer shall have the option of combining power of less than 3 horsepower and lighting at the lighting rates and at the lighting minimum, or of requiring separate power and lighting meters for each service at the rates and minimum charges applicable thereto. In case of new customers, the company shall have the option of supplying either single or three-phase current to power installations of less than 3 horsepower.

## RATES.

First 20 kilowatt hours monthly.....	8 cents per kilowatt hour
Next 30 kilowatt hours monthly.....	6 cents per kilowatt hour
Next 300 kilowatt hours monthly.....	5 cents per kilowatt hour
Over 350 kilowatt hours monthly.....	3 cents per kilowatt hour

*Prompt payment discounts*—none.

*Minimum charge*—\$1.00 per meter per month.

*Connection charge*—A connection charge of \$1.00 will be required of all applicants for service, the same to be refunded if applicant remains a customer of the company continuously for 12 months at one location.

## SCHEDULE "B".

*Lighting and Small Motors Outside the Towns of Monterey, Pacific Grove and Salinas.*

## CHARACTER OF SERVICE.

This schedule applies to all lighting installations outside the towns of Monterey, Pacific Grove and Salinas. No motor having a capacity in excess of one horsepower can be installed under this rate, which, however, includes all lamp socket appliances.

## RATES.

First 50 kilowatt hours monthly.....	10 cents per kilowatt hour
Next 50 kilowatt hours monthly.....	9 cents per kilowatt hour
Next 100 kilowatt hours monthly.....	8 cents per kilowatt hour
Next 200 kilowatt hours monthly.....	7 cents per kilowatt hour
Next 200 kilowatt hours monthly.....	6 cents per kilowatt hour
Next 200 kilowatt hours monthly.....	5 cents per kilowatt hour
Next 200 kilowatt hours monthly.....	4 cents per kilowatt hour
Over 1,000 kilowatt hours monthly.....	3 cents per kilowatt hour

*Prompt payment discounts*—A discount of 10 per cent is allowed on bills paid at company's office before the tenth day of the month, provided that no payment shall be less than the minimum.

*Minimum charge*—\$1.00 per month per meter.

## SCHEDULE "C".

*Optional Combination Lighting, Cooking and Heating Rate—for Entire Territory.*

## CHARACTER OF SERVICE.

Applicable to all connections for domestic use in residences, flats or apartments occupied by single families where the entire service is received through a single meter. This rate shall also be applicable to commercial lighting and power consumers whose total installed capacity is not in excess of 5 kilowatts, each socket being rated at 50 watts for the purpose of determining installed capacity.

## RATES.

First 25 kilowatt hours per month.....	10 cents per kilowatt hour
Over 25 kilowatt hours per month.....	3 cents per kilowatt hour

*Prompt payment discounts*—A discount of 10 per cent will be allowed on all bills paid at the office of the company on or before the tenth day of the month succeeding that for which the bill is rendered, but in no case shall the bill paid be less than the minimum.

*Minimum charge*—\$2.50 per month per meter.

## SCHEDULE "D".

*Cooking and Heating Rate for Entire Territory.*

## CHARACTER OF SERVICE.

This schedule is applicable to all consumers who desire electricity for cooking and heating only.

## RATES.

First 50 kilowatt hours monthly ———— 3½ cents per kilowatt hour  
 Over 50 kilowatt hours monthly ———— 3 cents per kilowatt hour  
*Prompt payment discounts* None.  
*Minimum charge*—\$2.50 per month per meter.

## SCHEDULE "E".

*Commercial Power Rates for Entire Territory Contract or Noncontract Meter Rates.*

## (Block System)

## CHARACTER OF SERVICE.

This schedule is applicable to all power consumers.

## RATES.

First 50 kilowatt hours per month per horsepower rated capacity, 4 cents per kilowatt hour.  
 Next 100 kilowatt hours per month per horsepower rated capacity, 2 cents per kilowatt hour.  
 All over 150 kilowatt hours per month per horsepower rated capacity, 1 cent per kilowatt hour.

## DISCOUNTS FOR SIZE OF INSTALLATION.

The following discounts depending upon the size of the consumer's installation, as determined by the rated capacity of operating utilization equipment, will be allowed from the foregoing rates.

First 15 horsepower or less, no discount.  
 Next 10 horsepower, 1 per cent per horsepower.  
 Next 50 horsepower, 1 per cent for each 5 horsepower.  
 Next 50 horsepower, 1 per cent for each 10 horsepower.  
 Next 125 horsepower, 1 per cent for each 25 horsepower.  
 Next 250 horsepower, 1 per cent for each 50 horsepower.  
 Next 500 horsepower, 1 per cent for each 100 horsepower.

Any installation in excess of 1,000 horsepower shall be considered as a case requiring the execution of a special contract, which shall be subject to the approval of the Railroad Commission.

## GROSS REVENUE DISCOUNTS.

In addition to the above discounts, the following discounts will be allowed, depending upon the total gross revenue per horsepower per calendar year:

First \$10.00 per horsepower per year, net.  
 Next 10.00 per horsepower per year, 10 per cent.  
 Next 10.00 per horsepower per year, 20 per cent.  
 Next 10.00 per horsepower per year, 30 per cent.  
 Next 10.00 per horsepower per year, 40 per cent.  
 Next 10.00 per horsepower per year, 50 per cent.  
 Next 10.00 per horsepower per year, 60 per cent.  
 Next 10.00 per horsepower per year, 70 per cent.  
 Next 10.00 per horsepower per year, 80 per cent.  
 Over 90.00 per horsepower per year, 90 per cent.

*Minimum charge*—\$1.00 per horsepower per month where consumer does not sign a term contract, or \$6.00 per year per horsepower where consumer signs a yearly contract.

## SCHEDULE "F".

*Optional Power Service Rate for Entire Territory—Contract Meter Rate.*

## (Service Plus Energy System)

## CHARACTER OF SERVICE.

This schedule is applicable to all power consumers who sign a contract for at least six months per year.

## RATES.

Service charge of \$2.00 per month per horsepower of rated capacity, to which charge shall be added an energy charge of 1 cent per kilowatt hour for all electric energy supplied.

## DISCOUNTS FOR SIZE OF INSTALLATION.

The following discounts, depending upon the size of the consumer's installation, as determined by the rated capacity of operating utilization equipment, will be allowed from the foregoing rates:

First	15 horsepower or less,	no discount.
Next	10 horsepower,	1 per cent per horsepower.
Next	50 horsepower,	1 per cent for each 5 horsepower.
Next	50 horsepower,	1 per cent for each 10 horsepower.
Next	125 horsepower,	1 per cent for each 25 horsepower.
Next	250 horsepower,	1 per cent for each 50 horsepower.
Next	500 horsepower,	1 per cent for each 100 horsepower.

Any installation in excess of 1,000 horsepower shall be considered as a case requiring the execution of a special contract, which shall be subject to the approval of the Railroad Commission.

## GROSS REVENUE DISCOUNTS.

In addition to the above discounts, the following discounts will be allowed, depending upon the total gross revenue per horsepower per calendar year:

First	\$10.00 per horsepower per year,	net.
Next	10.00 per horsepower per year,	10 per cent.
Next	10.00 per horsepower per year,	20 per cent.
Next	10.00 per horsepower per year,	30 per cent.
Next	10.00 per horsepower per year,	40 per cent.
Next	10.00 per horsepower per year,	50 per cent.
Next	10.00 per horsepower per year,	60 per cent.
Next	10.00 per horsepower per year,	70 per cent.
Next	10.00 per horsepower per year,	80 per cent.
Over	90.00 per horsepower per year,	90 per cent.

*Minimum charge*—Service charge during the contract months.

## SCHEDULE "G".

*Optional Flat Rate for Power for Entire Territory.*

## CHARACTER OF SERVICE.

This schedule is applicable to all power consumers. No contract required other than written application for service.

## RATES.

\$10.00 per month per horsepower rated capacity for the first month's service.

7.50 per month per horsepower rated capacity for each succeeding month throughout the period that service is supplied continuously.

## DISCOUNTS FOR SIZE OF INSTALLATION.

The following discounts, depending upon the size of the consumer's installation, as determined by the rated capacity of operating utilization equipment, will be allowed from the foregoing rates:

First	15 horsepower or less,	no discount.
Next	10 horsepower,	1 per cent per horsepower.
Next	50 horsepower,	1 per cent for each 5 horsepower.
Next	50 horsepower,	1 per cent for each 10 horsepower.
Next	125 horsepower,	1 per cent for each 25 horsepower.
Next	250 horsepower,	1 per cent for each 50 horsepower.
Next	500 horsepower,	1 per cent for each 100 horsepower.

Any installation in excess of 1,000 horsepower shall be considered as a case requiring the execution of a special contract, which shall be subject to the approval of the Railroad Commission.

## GROSS REVENUE DISCOUNTS.

In addition to the above discounts, the following discounts will be allowed, depending upon the total gross revenue per horsepower per calendar year:

First	\$10.00	per horsepower per year, net.
Next	10.00	per horsepower per year, 10 per cent.
Next	10.00	per horsepower per year, 20 per cent.
Next	10.00	per horsepower per year, 30 per cent.
Next	10.00	per horsepower per year, 40 per cent.
Next	10.00	per horsepower per year, 50 per cent.
Next	10.00	per horsepower per year, 60 per cent.
Next	10.00	per horsepower per year, 70 per cent.
Next	10.00	per horsepower per year, 80 per cent.
Over	90.00	per horsepower per year, 90 per cent.

## SCHEDULE "II".

*Yearly Rate for Municipal Series Street Lighting Service at Salinas, King City, Monterey and Pacific Grove. All-Night Lighting Schedule—on Lamp Basis.* •

## CHARACTER OF SERVICE.

This schedule applies to the series street lighting service on lamp basis, all-night and every night-lighting schedule, for the towns of Monterey, Pacific Grove, King City and Salinas, and includes all maintenance and lamp renewals necessary for such service.

## RATES.

*All night 365 days per year.*

- Are Lamps 6.6 ampere series, enclosed are lamps, \$54.00 per lamp per year.
- 100-Candlepower series incandescent street lamps, \$21.60 per lamp per year.—
- 60-Candlepower series incandescent street lamps, \$17.40 per lamp per year.
- 40-Candlepower series incandescent street lamps, \$15.00 per lamp per year.

*Prompt payment discounts—None.*

*Minimum charge—Flat yearly rate.*

*Lamp service—Company furnishes lamps free.*

## SCHEDULE "I".

*Special Rate Applicable to Service Supplied to the City of Salinas for Electrolier Lights.*

## CHARACTER OF SERVICE.

Company will supply all necessary distribution equipment and all labor for maintenance, operation and renewals. City will supply lamp standards and fixtures and all material required for lamp renewals. Lamps to be 600 candlepower incandescents.

## RATES.

Service charge \$1.00 per lamp per month, to which service charge shall be added the following energy charge for all energy supplied to the system as metered at the substation:

- First 500 kilowatt hours per month, 5 cents per kilowatt hour.
- Next 500 kilowatt hours per month, 4 cents per kilowatt hour.
- Over 1,000 kilowatt hours per month, 3 cents per kilowatt hour.

*Prompt payment discounts—None.*

*Minimum charge—Service charge.*

2. Coast Valleys Gas and Electric Company is hereby ordered to establish and file with the Railroad Commission on or before November 30, 1917, the following rates for gas service, which rates are found to be just and reasonable rates. These rates shall be made effective

at the next regular meter reading dates sub-equent to said date of filing:

### Gas Rates.

#### SALINAS.

First	500 cubic feet or less per month	\$1.00
Next	2,500 cubic feet per month	1.00 per 1,000 cubic feet
Next	7,000 cubic feet per month	1.30 per 1,000 cubic feet
Next	15,000 cubic feet per month	1.10 per 1,000 cubic feet
Over	25,000 cubic feet per month	1.00 per 1,000 cubic feet

#### MONTEREY AND PACIFIC GROVE.

First	500 cubic feet or less per month	\$1.00
Next	2,500 cubic feet per month	1.50 per 1,000 cubic feet
Next	7,000 cubic feet per month	1.25 per 1,000 cubic feet
Next	15,000 cubic feet per month	1.00 per 1,000 cubic feet
Over	25,000 cubic feet per month	.90 per 1,000 cubic feet

3. Coast Valleys Gas and Electric Company is hereby ordered to establish and file with the Railroad Commission on or before November 30, 1917, the following rates for water service, which rates are found to be just and reasonable rates. These rates shall become effective upon the actual installation of consumers' meters, except the flat rates for fire service which shall become effective at the next regular billing day following the aforesaid date of filing. Existing flat rates shall remain in effect pending the actual installation of meters:

### Salinas Water System.

#### MONTHLY FLAT RATES.

Fire service:

a. General charge	\$100.00 per month
b. Additional for each hydrant owned by company	.50 per month

#### Meter Rates.

##### GENERAL USE.

First	500 cubic feet used per month	20 cents per 100 cubic feet
Next	2,500 cubic feet used per month	15 cents per 100 cubic feet
For use above	3,000 cubic feet per month	6 cents per 100 cubic feet

##### IRRIGATION USE.

For gardens, fruit or field crops alone or combined with household use.

First	500 cubic feet used per month	20 cents per 100 cubic feet
Next	500 cubic feet used per month	15 cents per 100 cubic feet
For use above	1,000 cubic feet per month	6 cents per 100 cubic feet

#### MONTHLY MINIMUM FOR EACH SERVICE METERED.

$\frac{3}{4}$ -inch meter	\$1 00
1-inch meter	1 50
1 $\frac{1}{2}$ -inch meter	2 25
2-inch meter and larger	3 00

### King City Water System.

#### MONTHLY FLAT RATES.

Fire service:

a. General charge	\$25.00 per month
b. Additional for each hydrant owned by company	.50 per month

#### METER RATES.

Same as in Salinas.



By reason of the rates herein established, which rates modify conditions under which all classes of electric service will be supplied by the Coast Valleys Gas and Electric Company, the company shall submit to the commission revised rules and regulations to conform with the findings herein, and with the rules laid down by the commission in its Decision No. 2879, Volume VIII, Opinions and Orders of the Railroad Commission of California, page 272.

4. Coast Valleys Gas and Electric Company is hereby directed to prepare and file with the Railroad Commission on or before December 20, 1917, revised rules and regulations in accordance with the findings contained in this order, in the opinion preceding this order, and in Decision No. 2879, and satisfactory to the Railroad Commission.

5. Coast Valleys Gas and Electric Company is hereby directed to prepare and file with the Railroad Commission on or before December 20, 1917, revised application forms and revised forms of contracts applicable to each class of service in connection with which contracts are specifically permitted in this order.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the state of California.

Dated at San Francisco, California, this sixteenth day of November, 1917.

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DECISION No. 4848.

IN THE MATTER OF THE APPLICATION OF OAKLAND, ANTIOCH AND  
EASTERN RAILWAY FOR LEAVE TO ISSUE CERTAIN NOTES AND  
BONDS.

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Application No. 1730.

*Decided November 16, 1917.*

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In proceedings before the commission affecting the financial status of a utility, the commission will consider the wishes of the majority of the bondholders of the utility interested and will not withhold its consent to a proposed financial rearrangement on the sole grounds that a small minority of the bondholders are opposed thereto.

Petition of minority bondholders for a rehearing denied.

*Jesse H. Steinhart*, for Applicant.

*Allan P. Matthew* and *Howard P. Smith*, for certain objectors.

EDGERTON, *Commissioner*.

**OPINION ON APPLICATION FOR REHEARING.**

Applicants, who represent a comparatively small percentage of the outstanding bonds of Oakland, Antioch and Eastern Railway and Oakland and Antioch Railway, ask that the order heretofore made on November 20, 1915, and supplements thereto be revoked.

Under these orders Oakland, Antioch and Eastern Railway was authorized to issue bonds and notes under certain specified conditions.

Oakland, Antioch and Eastern Railway had in 1914 fallen into financial difficulties so that it became necessary in order to avoid receivership to in some way take care of the interest on its funded debt, which its revenues were not sufficient to meet.

A large majority of the bondholders and the managers of the company agreed upon a plan whereby the bondholders submitted to a postponement of the payment of their bond interest for a period of three years from January 1, 1915, it being understood that at the end of this period they were to receive bonds in lieu of cash for the deferred interest.

A stockholders' agreement was made whereby an assessment theretofore levied against the stock was to be changed into a loan by the stockholders, the loan to be evidenced by notes with bonds as collateral security.

The company submitted these contracts to the commission with its application, but the commission specifically declared that it did not approve, directly, indirectly or by implication these financial plans; the commission took the position that where the owners of bonds voluntarily agreed to a postponement of their interest that it should not interpose objection.

The commission authorized the company to issue bonds under the following provisions:

“The bonds herein authorized to be issued may be sold to applicant's bondholders or stockholders for cash, or may be issued in lieu of bond interest earned and used by the company for capital purposes, at not less than 80 per cent of their face value plus accrued interest.”

“The bonds hereby authorized to be issued, shall be only such bonds as are now pledged as collateral security for the applicant's note indebtedness.”

Subsequent to the date of this order this latter provision was modified in a slight degree only.

Notes were authorized to be issued upon the following terms, among others:

“The notes herein authorized to be issued in the sum of \$262,200.00 may be issued by the applicant to its stockholders for cash equivalent to the face value of said notes.”

There was a further authorization permitting the company to pledge \$328,000.00 face value of bonds as collateral security for the \$262,200.00 of notes, provided that in the event of nonpayment of these notes the stockholders could reduce the bonds to ownership only upon the mini-

num basis of 80 per cent of face value of such bonds compared with par of notes.

The protesting minority bondholders insist that the order of the commission has permitted the company to put this plan in effect and that the plan was doomed to failure from the beginning.

A careful reading of the petition of these protesting bondholders and the brief and oral argument submitted on their behalf fails to disclose a clear and specific statement of the results hoped to be accomplished by a revocation of the commission's order, except it is positively stated that such action would result in speedy reorganization of the company's capitalization.

No time need be wasted discussing the so-called financial plan of this company as it is admitted on all sides to be a failure. Nobody connected with this company or any of its securities has the slightest intention of attempting to carry out this plan. Further it is conceded that a complete and drastic reorganization of the capitalization of both companies will be necessary.

The managers of the two companies and the majority bondholders insist that plans are now being discussed for complete financial reorganization and we are urged by them not to revoke the orders heretofore made, first upon the ground that such revocation would be ineffective, in that bonds and notes have been issued thereunder and a revocation of these orders would in no wise change the status of the holders of such bonds and notes; and further that the activities of the interested parties will result in a complete reorganization on which any action of this commission revoking this order would have little effect.

Among other things the protesting bondholders insist that their position has been made worse during the past two years by reason of the workings of the so-called financial plan of the company.

The evidence, however, does not sustain this contention. The fact is that the net result of the workings of this plan are that there are \$5,000.00 face value of bonds more outstanding now than were outstanding at the time the plan was inaugurated and this \$5,000.00 face value of bonds is more than offset by additional funds in the treasury.

The evidence does not disclose any basis upon which it can be fairly claimed that the bondholders are in a worse position today because of the operation of this plan than they were before its being put into effect; unless it be contended that receivership would have been beneficial to the bondholders of both of these companies in 1915 as compared with reorganization in 1918.

In this connection attention is called to the fact that under the trust deeds securing the issuance of the bonds of both companies foreclosure proceedings ultimately rest with the holders of a majority in amount

of the bonds outstanding. Therefore when a large majority of the bondholders, over 80 per cent of total outstanding bonds, refuse to foreclose and urge upon this commission such action as will permit them to postpone bond interest upon the assertion by them that this will afford opportunity for the company to avoid receivership, it is not reasonable to expect that the commission at the instance of the holders of a very small percentage of total outstanding bonds would insist upon the financial ideas of the minority bondholders being put into effect rather than those of a large majority of the bondholders.

However, it is my judgment that the Oakland, Antioch and Eastern Railway and the Oakland and Antioch Railway are not in sound financial condition; that the plan now in effect will in no wise improve this financial condition and that it is imperatively necessary that immediate steps be taken to reorganize the financial condition and capitalization of these companies.

The revocation of the orders, as asked for by the protesting bondholders would in my judgment not necessarily bring about this result and therefore I recommend that the application for rehearing be denied; but that the attention of Oakland, Antioch and Eastern Railway and Oakland and Antioch Railway be directed to that portion of the order dated November 20, 1915, which is as follows:

“On or before January 1, 1918, the applicant shall report to this commission a plan for the readjustment of its finances to meet its maturing obligations and to place it upon a permanent basis to meet its financial necessities.”

and that assurance be given that the commission will insist on the fulfillment of this requirement.

Herewith a form of order:

#### ORDER.

Application having been made for a rehearing in the above-entitled matter and a hearing thereon having been had and it appearing to the commission for the reasons set out in the foregoing opinion that this application for rehearing should be denied, it is hereby ordered that the application for rehearing herein be and the same is hereby denied.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the state of California.

Dated at San Francisco, California, this sixteenth day of November, 1917.

## DECISION No. 4849.

IN THE MATTER OF THE APPLICATION OF ANSEL M. EASTON TO DISCONTINUE AND ABANDON WHAT IS COMMONLY KNOWN AS THE BURLINGAME RAILWAY.

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Application No. 3192.

*Decided November 19, 1917.*

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Applicant, operating a small line of railway in San Mateo County at a considerable loss, is authorized to discontinue same and remove the tracks, provided an automobile service is established over the same route and the streets where tracks are removed be placed in the same condition as adjacent streets.

*Ross & Ross*, by *H. C. Ross*, for Applicant.

*Rufus H. Kimball*, for certain property owners, members of Eastern Improvement Association.

*W. H. Pearson*, for Peninsular Rapid Transit Company.

*GORDON*, *Commissioner*.

**OPINION.**

This is an application on behalf of Ansel M. Easton for an order of the Railroad Commission authorizing the discontinuance of service and the abandonment and removal of the tracks of a line of railway in the town of Burlingame and over private right of way in the county of San Mateo, commonly known as the Burlingame Railway.

A public hearing was held at Burlingame on October 4, 1917, the matter was duly submitted and is now ready for decision.

The so-called Burlingame Railway is a standard guage street railway line 8,850 feet in length, extending from the west side of the right of way of the Southern Pacific Company at Easton Station in the town of Burlingame along and upon San Mateo drive to Carmelita avenue, thence along and upon Carmelita avenue to Cabrillo avenue, thence along and upon Cabrillo avenue to Easton drive, thence along and upon Easton drive to Hillside drive, thence along and upon Hillside drive to its intersection with Vancouver avenue, thence over and along a private right of way a distance of approximately seven blocks to Alvarado avenue.

The portion of the line in the town of Burlingame was constructed in accordance with the provisions of a franchise granted to Ansel M. Easton by the board of trustees of the town of Burlingame under date of July 24, 1911. The line was constructed for the purpose of furnishing transportation from Easton Station on the line of the Southern Pacific Company to certain tracts of real estate that were subdivided by the applicant herein. The line was constructed with 55-pound grooved rail and has been operated with a single storage battery electric car with a seating capacity of 26 passengers.

The line has been operated at a deficit since its commencement as more fully appears in the following table:

*Fiscal Year ending June 30.*

	1915	1916	1917	Total
Earnings .....	\$1,265 85	\$1,064 55	\$856 85	\$3,187 25
Operating expenses .....	4,543 27	4,440 80	5,366 19	14,350 26
Operating deficit .....	\$3,277 42	\$3,376 25	\$4,509 34	\$11,163 01

The expenses shown above are actual operating expenses and do not include amounts paid for taxes and insurance nor any interest on investment.

It is evident that the public necessity does not require the continued operation of the Burlingame Railway and that such would result in further and increasing deficits.

Counsel for applicant outlined the intention of applicant to pave and improve the right of way granted by franchise from the town of Burlingame when the removal of tracks had been accomplished in the same manner as the adjacent portion of the streets over which the line operated. It is the intention of applicant to substitute an automobile bus service for that now furnished by the railroad proposed to be abandoned, such service accommodating passengers that otherwise would be inconvenienced by the suspension of service and the abandonment of the line.

No protest was made against the suspension of operation and the abandonment of the line provided that a substituted service by automobile was arranged and the paving and other improvements to streets were made at the time of removal of the track to conform to the portions of the street other than covered by the franchise.

After consideration of the evidence in this proceeding, I am of the opinion and find as a fact that the continued operation of the so-called Burlingame Railway by Ansel M. Easton is not necessary for the public convenience and that permission to suspend same and abandon and remove the tracks should be granted.

I recommend the following order:

#### **ORDER.**

A public hearing having been held in the above-entitled proceeding, and the matter having been duly submitted and the commission being fully advised,

*It is hereby ordered* that the application of Ansel M. Easton for permission to suspend operation and abandon and remove the tracks of the so-called Burlingame Railway in the town of Burlingame and the county of San Mateo as more particularly described in the foregoing

opinion, be and the same hereby is granted, upon the following conditions:

1. The suspension of service hereby authorized shall not be effective until applicant shall have established an automobile stage service over the same route now served by the street railroad.

2. The work of removing the tracks and placing the portion of the streets occupied by same in equivalent condition with the balance of the streets over which said street railroad now operates shall be completed within sixty (60) days from the date of suspension of operation.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the state of California.

Dated at San Francisco, California, this nineteenth day of November, 1917.

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DECISION No. 4850.

IN THE MATTER OF THE APPLICATION OF ANSEL M. EASTON FOR CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY TO OPERATE AUTOMOBILE STAGE BETWEEN BROADWAY STATION IN THE CITY OF BURLINGAME AND INTERSECTION OF HILLSIDE DRIVE AND ALVARADO AVENUE IN EASTERN ADDITION TO BURLINGAME No. 7 IN THE COUNTY OF SAN MATEO.

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Application No. 3193.

*Decided November 19, 1917.*

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Applicant having been authorized to abandon a small electric railway which it operates in San Mateo County, is granted a certificate permitting the operation of an auto passenger carrying bus over the same route, provided all necessary permits are secured from public authorities of the districts through which the bus will operate.

*Ross & Ross*, by *H. C. Ross*, for Applicant.

*Rufus H. Kimball*, for certain property owners and Easton Improvement Association.

*W. H. Pearson*, for Peninsular Rapid Transit Company.

*GORDON*, *Commissioner*.

**OPINION.**

Petitioner asks the Railroad Commission to make its order declaring that public convenience and necessity require the operation by petitioner of an automobile stage service for the carriage of passengers from the Broadway station of the Southern Pacific Company in the city of Burlingame to the intersection of Hillside drive and Alvarado avenue in Eastern Addition to Burlingame No. 7 in the county of San Mateo.

A public hearing herein was held at Burlingame on October 4, 1917. The route over which applicant proposes to operate is as follows:

Commencing at the intersection of Broadway (formerly Buri Buri avenue) with San Mateo drive, at or near Broadway Station on the Southern Pacific Railroad, and running thence southeasterly over, along, and upon San Mateo drive to its intersection with Carmelita avenue; thence over, upon and along Carmelita avenue, across and intersecting Chulavista avenue, Laguna avenue, Paloma avenue, Capuchino avenue, main county road leading from San Francisco to San Jose, Balboa avenue and Cortez avenue to the intersection of Carmelita avenue with Cabrillo avenue; thence northwesterly over, along and upon said Cabrillo avenue, across and intersecting Buri Buri avenue and Sherman avenue and Easton drive, to the intersection of Cabrillo avenue and Hillside drive; and thence upon, over and along Hillside drive, in a southwesterly direction, across and intersecting Drake avenue, Bernal avenue, and Vancouver avenue to the southwesterly limits of the city of Burlingame; and thence continuing over, along and upon said Hillside drive in a southwesterly direction from said southwesterly limits of the city of Burlingame, across and intersecting De Soto avenue, Columbus avenue, Charles avenue, Costillo avenue, Montero avenue and Bonito avenue to the intersection of Hillside drive and Alvarado avenue.

The equipment proposed to be used in this service is one 40-horse-power Studebaker bus with seating capacity of fifteen passengers. The equipment has not yet been purchased.

The fare proposed is five cents in either direction over the entire route or any proportion thereof.

The proposed operating time schedule is as follows:

<i>Leaving Broadway.</i>		<i>Leaving Alvarado Avenue.</i>	
<sup>1</sup> 6.40 a.m.-----	12.10 p.m.	<sup>1</sup> 6.50 a.m.-----	12.20 p.m.
<sup>1</sup> 7.30 a.m.-----	1.50 p.m.	<sup>1</sup> 7.40 a.m.-----	1.15 p.m.
<sup>1</sup> 7.55 a.m.-----	<sup>2</sup> 2.20 p.m.	<sup>1</sup> 8.18 a.m.-----	2.00 p.m.
8.40 a.m.-----	<sup>2</sup> 2.35 p.m.	8.58 a.m.-----	<sup>2</sup> 2.30 p.m.
<sup>2</sup> 9.50 a.m.-----	<sup>3</sup> 3.25 p.m.	<sup>2</sup> 10.00 a.m.-----	<sup>2</sup> 2.45 p.m.
<sup>1</sup> 10.00 a.m.-----	3.50 p.m.	<sup>1</sup> 10.10 a.m.-----	<sup>3</sup> 3.35 p.m.
10.45 a.m.-----	4.50 p.m.	10.55 a.m.-----	4.00 p.m.
11.10 a.m.-----	5.51 p.m.	11.20 a.m.-----	5.00 p.m.
	6.10 p.m.		6.01 p.m.
	7.00 p.m.		6.20 p.m.
	<sup>3</sup> 8.40 p.m.		7.10 p.m.
	<sup>3</sup> 12.15 p.m.		<sup>3</sup> 8.50 p.m.

<sup>1</sup>Daily except Sundays.

<sup>2</sup>Sundays only.

<sup>3</sup>Saturdays only.

All others daily.

Applicant herein has heretofore and is now operating the so-called Burlingame Railway over the same route hereinabove mentioned and has filed application with the Railroad Commission for permission to suspend operation and abandon and remove the tracks and desires to substitute the automobile stage service for that formerly rendered by the street railroad.



No permits have been issued by the city of Burlingame and the county of San Mateo as required by section 3 of chapter 213 of the statutes of 1917, but applicant intends to make immediate application therefor.

In view of the proposed suspension of service and abandonment of the Burlingame Railway, I find as a fact that the public convenience and necessity will require the substituted service proposed to be given by the automobile stage service of the petitioner herein.

I submit the following form of order:

**ORDER.**

Ansel M. Easton having filed a petition asking that the Railroad Commission make its order declaring that public convenience and necessity require the operation of an automobile stage service for the carriage of passengers over the route as set forth in the foregoing opinion, a public hearing having been held, the matter having been submitted and being now ready for decision, the Railroad Commission hereby finds as a fact that public convenience and necessity require the operation by Ansel M. Easton of an automobile stage line as a common carrier of passengers between Broadway Station in the city of Burlingame to the intersection of Hillside drive and Alvarado avenue in the county of San Mateo over the route as set forth in the foregoing opinion, on the conditions hereinafter specified.

Basing its order on the foregoing finding of fact and on the other findings of fact contained in the opinion which precedes this order,

The Railroad Commission hereby declares that public convenience and necessity require the operation by Ansel M. Easton of an automobile stage between Broadway Station in the city of Burlingame and the intersection of Hillside drive and Alvarado avenue in the county of San Mateo over the route as set forth in the foregoing opinion; provided that this declaration shall not become effective until said Ansel M. Easton shall have secured from the Railroad Commission a supplemental order herein reciting that he has filed herein certified copies of permits from the board of trustees of the city of Burlingame and the board of trustees of San Mateo County as provided by section 3 of chapter 213, laws of 1917; and provided, further, that the rights and privileges herein granted shall not be assigned or transferred unless the written consent of the Railroad Commission to such assignment or transfer has first been secured.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the state of California.

Dated at San Francisco, California, this nineteenth day of November, 1917.

## DECISION No. 4851.

IN THE MATTER OF THE APPLICATION OF SOUTHERN CALIFORNIA EDISON COMPANY FOR AN ORDER OF THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA AUTHORIZING IT TO ISSUE, SELL AND DELIVER FIFTY THOUSAND SHARES OF ITS COMMON CAPITAL STOCK OF THE PAR VALUE OF ONE HUNDRED DOLLARS EACH.

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Application No. 2743.

*Decided November 19, 1917.*

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BY THE COMMISSION.

**SIXTH SUPPLEMENTAL ORDER.**

Applicant in the above-entitled matter having reported to the Railroad Commission that it has become necessary to amend "Exhibit B" attached to the third supplemental petition in the above-entitled matter, said "Exhibit B" being an agreement under the terms of which applicant is taking subscriptions for its common capital stock from its employees other than its officers and department heads; now, therefore,

*It is hereby ordered* that of the common capital stock heretofore authorized to be issued by the Railroad Commission, the applicant may sell 7,500 shares to its employees other than officers and department heads under the terms of the agreement marked "Exhibit B," as amended.

*It is hereby further ordered* that the Railroad Commission's orders in this proceeding shall remain in full force and effect except as modified by this sixth supplemental order.

Dated at San Francisco, California, this nineteenth day of November, 1917.

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DECISION No. 4852.

IN THE MATTER OF THE APPLICATION OF LOS ANGELES GAS AND ELECTRIC CORPORATION FOR THE FIXING AND CLASSIFICATION OF GAS RATES, AND FOR AUTHORITY TO PUT SAME INTO EFFECT.

Application No. 1830.

CITY OF LOS ANGELES

vs.

SOUTHERN CALIFORNIA GAS COMPANY AND LOS ANGELES GAS AND ELECTRIC CORPORATION.

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Case No. 854.

*Decided November 19, 1917.*

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1. The commission will not consider a petition of a municipality requesting that a schedule of rates established for gas service be held in abeyance until the

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- company begins serving natural gas, particularly when the new schedule contains rates materially less in certain cases than those heretofore in effect, the consumers being considered as entitled to the lower rate.
2. It is held that in general rate schedules should apply uniformly to all residents of an incorporated municipality instead of establishing zone areas where different groups of consumers within the same incorporated territory will be compelled to pay different rates for the same service. Order amended so as to provide that the city of Pasadena be considered as one district and also the city of Los Angeles with the exception of certain outlying sparsely settled territory.
  3. The commission will not alter a rate established for a gas utility on the claim of a municipality that the utility heretofore promised to give consumers in such municipality the same rate as that accorded consumers in a much larger city. To give consideration to promises of a utility such as the above would make it impossible to establish logical rate schedules and would affect considerable discrimination against certain classes of consumers while others received concessions in the shape of more favorable rates than those to which they were entitled.
  4. Petition of cities for rehearing denied and schedules heretofore established amended in certain particulars, such rates to become effective December 5, 1917.

*Wm. A. Cheney, Paul Overton and Herbert J. Goudge, for Los Angeles Gas and Electric Corporation.*

*Jared How, for Southern California Gas Company.*

*Albert Lee Stephens, for the city of Los Angeles.*

*J. H. Howard, and John Munger, for the city of Pasadena.*

*Clyde Woodworth, for the city of Inglewood and for the city of Beverly Hills.*

*Geo. E. Farrand and Leonard B. Slosson, for the California Tissue Mills and other industries.*

*L. O. Hatch, for the city of Eagle Rock.*

*William Hazlett, for the city of South Pasadena.*

*Thomas B. Cassidy, for Huntington Park.*

*Gesner Williams, for certain undisclosed consumers.*

*Thomas A. Berkebile, for Monterey Park.*

EDGERTON, *Commissioner.*

#### OPINION ON REHEARING.

Applications for a rehearing relating to certain portions of the order in the above-entitled matters were made by the cities of Los Angeles, Glendale, Pasadena and Inglewood.

Because of statements made to the commission by a number of cities, the rates for gas within which were affected by the order of the commission, that these cities had not had an opportunity to appear in the previous rate proceedings and to present evidence and make representations to the commission, a notice was sent to the official representatives of each incorporated town within which rates were fixed by the order of the commission. Also an invitation was extended to each of these towns to appear at the hearing on the applications for rehearing and to submit such evidence and make such arguments as they saw fit.

As a result there were a number of appearances on behalf of these cities and the evidence introduced and the position taken by these communities will be discussed later.

At the hearing a stipulation was entered into by all parties that all evidence introduced and arguments made within the issues made by the applications for rehearing could be considered by the commission in determining such issues with the same effect as though such evidence and arguments had been submitted in a rehearing.

It will be noted therefore that unless the commission reopens these proceedings for rehearing it will be necessary to confine any modification of the order heretofore made to such matters as are encompassed within the issues made in the applications for rehearing.

The application for rehearing filed by the city of Los Angeles attacks the decision of the commission on the ground that the districts or zones therein fixed are not, so far as the city of Los Angeles is concerned, the logical or just lines to be fixed. This petition also states that if given an opportunity, representatives of the city would suggest changes which should be made in the lines of the zones or districts laid down by the commission within the limits of the city of Los Angeles.

Also this application set forth the request that the order of the commission be suspended or annulled in toto and that no rates be fixed in the city of Los Angeles for the service of gas until an ordinance of the city of Los Angeles providing for the serving of natural gas unmixed with manufactured gas should have become effective, whereupon the city would request the commission to fix rates upon such natural gas.

The application of the city of Pasadena attacks the order of the commission wherein the city of Pasadena is divided into two rate zones and the application asks for a rehearing in order that the city may make a showing against the establishment of any zones in the city of Pasadena for rate fixing and also asks for a rehearing of the commission's order fixing rates for such zones.

The application for rehearing filed by the city of Inglewood attacks the order of the commission wherein a higher rate was fixed for said city than was fixed for the city of Los Angeles; the objection is upon the principal ground that the city of Inglewood had been promised by Los Angeles Gas and Electric Corporation or its predecessor in interest that rates for gas furnished consumers in the city of Inglewood by said company should be no higher than rates for gas charged consumers in the city of Los Angeles.

The city of Glendale filed an application for rehearing but as service of gas in that community is given wholly by Southern California

Gas Company this application will be considered in connection with Application No. 1853.

At the hearing there was presented by George E. Farrand and Leonard B. Slosson, attorneys, a written statement on behalf of a number of industrial users embodying a protest against the recognition by this commission of an ordinance passed by the city of Los Angeles which seeks to compel all gas companies serving consumers within the city of Los Angeles to serve such consumers with natural gas unmixed with artificial gas.

As the consumers represented by this protest are served wholly by Southern California Gas Company this matter will be considered in connection with Application No. 1853.

I recommend that that portion of the application of the city of Los Angeles wherein the commission is requested to delay all rate fixing of gas service in the city of Los Angeles until such time as natural gas unmixed with artificial gas is served consumers be denied.

No attack is made by this city upon the rates fixed by the commission except in so far as such rates are different for different portions of the city of Los Angeles. The order of the commission establishing rates for the entire system of Los Angeles Gas and Electric Corporation fixed certain rates which are materially lower than the rate now being charged and it is obvious that as to those who would be benefited by these lower rates they have a right to demand that they go into effect immediately. Granting the city's application would at once put these consumers in a position of paying an unjustly high rate.

Furthermore the company itself applied for the fixing by the commission of just and reasonable rates over its entire system and that company is entitled to the action of this commission in this regard. Where this commission has found that rates are unjust and unreasonable it would be no proper ground for a denial of the company's application to merely say that we are assured by representatives of the city of Los Angeles that natural gas will be given at some time in the future and that it is the desire of the city of Los Angeles that no rates be fixed until such condition has been brought about. The company certainly could reply that it was unjust to it to be burdened with unjust rates for a service which it was actually rendering and which it is admitted on all hands will be rendered for some time in the future.

The representatives of the city did not make any showing which would justify the conclusion that consumers of gas in the city of Los Angeles would be benefited by a delay in this rate fixing.

The remaining portion of the application of the city of Los Angeles and the application of the city of Pasadena may be considered as a request that one rate be fixed for the area within the city boundaries,

except that the representatives of the city of Los Angeles limited this request to the territory served by the Los Angeles Gas and Electric Corporation. This limitation excludes certain thinly settled portions of the territory within the boundaries of the city of Los Angeles.

I am impressed with the showing made that it is the desire of the citizens of these communities to put their residents on a parity as to rates. It is shown that whenever in either of these communities a public utility service is owned and operated by the public the rates have invariably been made the same over the area within the city and it is urged that the best welfare of these communities will be served by following this procedure in rates charged by the privately owned public utility companies. Therefore I recommend that the order heretofore made be modified so that the city of Pasadena be considered one zone or district with a like rate charged for gas throughout, that the request of the representatives of the city of Los Angeles be granted and that the area within the boundaries of the city of Los Angeles be considered one district or zone except that part of the area included within the territory designated as San Fernando Addition, Westgate Addition, Palms Addition west of the north and south section line extended, between section 16 and section 17, township 1 south, range 14 west, S. B. B. and M., West Coast Addition and all portions south of the northern section line of sections number 31, 32 and 33, township 2 south, range 13 west and sections number 35 and 36, township 2 south, range 14 west, S. B. B. and M. It will be understood of course that the zone area herein set out is based upon present lines and it is not the intention to recommend that the rates fixed for this zone shall automatically extend to territory hereafter annexed.

It remains therefore to determine the rates which shall apply in the district of Los Angeles and in the district of Pasadena.

At the hearing representatives of the city of Los Angeles presented several exhibits a summary of which was contained in Los Angeles City's exhibit No. 9.

The purpose of these exhibits was to show that the rates heretofore fixed by the commission for district No. 1 in the city of Los Angeles should apply in the larger district which the city requested to be established and that this rate would still result in at least an 8 per cent return to the company upon the rate base fixed by the commission. It was claimed that the commission's estimate of gas sales for 1917 was low.

The company protested against consideration of this exhibit on the ground that the city had made no attack upon the reasonableness of rates fixed by the commission and that it was improper to present evidence attacking one of the elements going to make up the conclusion of the commission, this element being the average rate found

by the commission necessary to be charged to obtain for the company an 8 per cent return.

In view of the conclusions arrived at it will be unnecessary to pass specifically on the objections of the company to the consideration of these exhibits.

It does appear that the commission's estimate of gas sales for 1917 was low and that therefore the result of the determination of the commission for the year 1917 of the rates which it found to be just and reasonable would be to return to the company, under the conditions then existing, a somewhat higher net revenue than was anticipated.

However, when it is considered that the rates now fixed by the commission will go into effect as to practically all consumers for only one month of 1917 and mainly for the year 1918 unless natural gas is served in accordance with the ordinance of the city of Los Angeles; and that during the year 1918 the item of oil alone will involve an increased cost of more than any excess earnings which might occur over those anticipated, it will be seen that unless the commission should contemplate another rate fixing proceeding whereby rates were to be established for the year 1918, the rates now to be fixed should be fixed with a view to the conditions which exist during the period in which the rates are to be effective and not under the conditions which may have existed in 1917, which is practically passed. In any event, if a reduction in rates was now made for the remaining portion of 1917, which contemplated any possible difference between performance and estimate the effect upon the rate would be so slight that there would be no perceptible difference in the bills of consumers and the statement of the rate would be a fractional one which would be objectionable from many standpoints and would require adjustment for 1918.

I recommend that the rate for the city of Los Angeles be fixed so that the first block rate of 68 cents be retained and that the rates be established as follows:

First 5,000 cubic feet per meter per month, 68 cents per 1,000 cubic feet.  
Next 5,000 cubic feet per meter per month, 65 cents per 1,000 cubic feet.  
Next 15,000 cubic feet per meter per month, 55 cents per 1,000 cubic feet.  
Next 25,000 cubic feet per meter per month, 50 cents per 1,000 cubic feet.  
Over 50,000 cubic feet per meter per month, 45 cents per 1,000 cubic feet.  
Minimum bill, same as previously ordered.

In the city of Pasadena I recommend that the rate heretofore fixed by the Commission of 75 cents for the first block be retained and that the rates be established as follows:

First 4,000 cubic feet per meter per month, 75 cents per 1,000 cubic feet.  
Next 6,000 cubic feet per meter per month, 65 cents per 1,000 cubic feet.  
Next 15,000 cubic feet per meter per month, 55 cents per 1,000 cubic feet.  
Next 25,000 cubic feet per meter per month, 50 cents per 1,000 cubic feet.  
Over 50,000 cubic feet per meter per month, 45 cents per 1,000 cubic feet.  
Minimum bill, same as previously ordered.

The claim of the city of Inglewood that it should be accorded the same rates as the city of Los Angeles because a gas company in the past promised that this would be done in my judgment must be disregarded. If the principle were adopted that all promises made by companies and individuals and even municipalities in the past should be recognized by the commission as even morally binding, logical and just, rate fixing would immediately become an impossibility and we would have a condition whereby some consumers would be grossly discriminated against merely because utility companies had promised other consumers concessions or favorable rates. It may fairly be said as to all of the communities which appeared to urge that their rates be fixed on the same basis as the city of Los Angeles that there was in no instance any showing which would justify the conclusion that the fixing of rates on the basis adopted by the commission of considering the approximate additional cost of serving thinly-settled communities was unjust or illogical.

In fact it is fair to point out to these communities that instead of their having been lured into a position of disadvantage that in fact they have been the recipients in times past of discriminatory favors and that instead of complaining against rates which are now fixed for the future and which may be higher than those they paid in the past, they should be grateful for the unduly low rates they have enjoyed in the past.

I recommend therefore that the protests of the cities outside of Los Angeles and Pasadena be disregarded and the rates heretofore fixed by the commission's order be established.

For the sake of clarity and simplicity, the rates for the districts are restated as amended.

#### ORDER.

The Railroad Commission having heretofore, on August 21, 1917, made and filed its opinion and order herein and the city of Los Angeles, the city of Pasadena and the city of Inglewood having thereafter petitioned for a rehearing and the Railroad Commission having thereafter extended the effective date of said order of August 21, 1917, pending its final conclusion on the petitions for rehearing, and evidence and argument having been received at public hearings on the question of whether rehearing should be granted, and parties having stipulated that the evidence and argument thus submitted should be considered to be the evidence and argument which should be submitted in case a rehearing was granted, and the commission having given careful consideration to all the evidence herein presented and the matter being now ready for decision, the Railroad Commission hereby finds as a fact that the rates heretofore charged by Los Angeles



Gas and Electric Corporation are unjust and unreasonable in so far as they differ from the rates herein established and that the rates herein prescribed are just and reasonable rates.

Basing its order on the foregoing findings of fact and upon the additional findings of fact which are contained in the opinion which precedes this order,

*It is hereby ordered* as follows:

1. The petition of the city of Los Angeles for rehearing is hereby denied.

2. The petition of the city of Pasadena for rehearing is hereby denied.

3. The petition of the city of Inglewood for rehearing is hereby denied.

*It is hereby further ordered* that Los Angeles Gas and Electric Corporation file with the Railroad Commission within twenty days from the date of this order and make effective for all meter readings made on and after December 5, 1917, the following schedule of rates for gas:

#### GAS RATE SCHEDULE No. I.

##### *Territory.*

This schedule applies to Rate District No. I, which includes the following territory:

That portion of the city of Los Angeles designated as follows:

- (a) Original city as incorporated in 1850.
- (b) Extension of June 1, 1869.
- (c) City of Hollywood Addition.
- (d) East Hollywood Addition.
- (e) Colegrove Addition.
- (f) Western Addition.
- (g) University Addition.
- (h) Palms Addition east of north and south section line extended, between Sec. No. 16 and Sec. No. 17, Twp. 1 S., R. 14 W., S. B. B. and M.
- (i) Southern Addition.
- (j) Shoestring Addition north of northern section line of Secs. 31, 32 and 33, Twp. 2 S., R. 13 W., and Secs. 35 and 36, Twp. 2 S., R. 14 W., S. B. B. and M.
- (k) Bairdstown Addition.
- (l) Highland Park Addition.
- (m) Garvanza Addition.
- (n) Arroyo Seco Addition.
- (o) Occidental Addition.

##### *Character of Service.*

This schedule applies to sale of "815 B.t.u." gas for domestic and commercial service for lighting, cooking, heating, etc.

##### *Rate.*

First 5,000 cubic feet per meter per month, 68 cents per 1,000 cubic feet.  
 Next 5,000 cubic feet per meter per month, 65 cents per 1,000 cubic feet.  
 Next 15,000 cubic feet per meter per month, 55 cents per 1,000 cubic feet.  
 Next 25,000 cubic feet per meter per month, 50 cents per 1,000 cubic feet.  
 Over 50,000 cubic feet per meter per month, 45 cents per 1,000 cubic feet.

*Minimum Bill.*

Minimum monthly bill per meter for domestic service for flats and apartments where four (4) or more meters are continuously served in one location and on one service .....	35 cents
Minimum monthly bill per meter for domestic and commercial service other than above .....	50 cents

## GAS RATE SCHEDULE NO. II.

*Territory.*

This schedule applies to Rate District No. II which includes the entire city of Pasadena.

*Character of Service.*

This schedule applies to sale of "815 B.t.u." gas for domestic and commercial service for lighting, cooking, heating, etc.

*Rate.*

First 4,000 cubic feet per meter per month, 75 cents per 1,000 cubic feet.	
Next 6,000 cubic feet per meter per month, 65 cents per 1,000 cubic feet.	
Next 15,000 cubic feet per meter per month, 55 cents per 1,000 cubic feet.	
Next 25,000 cubic feet per meter per month, 50 cents per 1,000 cubic feet.	
Over 50,000 cubic feet per meter per month, 45 cents per 1,000 cubic feet.	

*Minimum Bill.*

Minimum monthly bill per meter for domestic service for flats and apartments where four (4) or more meters are continuously served in one location and on one service .....	35 cents
Minimum monthly bill per meter for domestic and commercial service other than above .....	50 cents

## GAS RATE SCHEDULE NO. III.

*Territory.*

This schedule applies to Rate District No. III, which includes the following territory:

Incorporate territory of—

- (a) City of South Pasadena.
- (b) City of Alhambra.

*Character of Service.*

This schedule applies to sale of "815 B.t.u." gas for domestic and commercial service for lighting, cooking, heating, etc.

*Rate.*

First 3,000 cubic feet per meter per month, 80 cents per 1,000 cubic feet.	
Next 7,000 cubic feet per meter per month, 70 cents per 1,000 cubic feet.	
Next 15,000 cubic feet per meter per month, 60 cents per 1,000 cubic feet.	
Next 25,000 cubic feet per meter per month, 50 cents per 1,000 cubic feet.	
Over 50,000 cubic feet per meter per month, 45 cents per 1,000 cubic feet.	

*Minimum Bill.*

Minimum monthly bill per meter for domestic service for flats and apartments where four (4) or more meters are continuously served in one location and on one service .....	35 cents
Minimum monthly bill per meter for domestic and commercial service other than above .....	50 cents

## GAS RATE SCHEDULE NO. IV.

*Territory.*

This schedule applies to Rate District No. IV which includes the following territory:

- (1) That part of the city of Los Angeles not included in District No. I served by Los Angeles Gas and Electric Corporation.
- (2) Incorporated territory of—
  - (a) San Marino.
  - (b) San Gabriel.
  - (c) Eagle Rock.
  - (d) Huntington Park.
  - (e) Vernon.
  - (f) Watts.
  - (g) Inglewood.
  - (h) Monterey Park.
- (3) All incorporated and unincorporated territory which is served by Los Angeles Gas and Electric Corporation and not included or listed above in Districts Nos. I, II and III.

*Character of Service.*

This schedule applies to sale of "815 B.t.u." gas for domestic and commercial service for lighting, cooking, heating, etc.

*Rate.*

First 3,000 cubic feet per meter per month, 85 cents per 1,000 cubic feet.  
 Next 7,000 cubic feet per meter per month, 70 cents per 1,000 cubic feet.  
 Next 15,000 cubic feet per meter per month, 60 cents per 1,000 cubic feet.  
 Next 25,000 cubic feet per meter per month, 50 cents per 1,000 cubic feet.  
 Over 50,000 cubic feet per meter per month, 45 cents per 1,000 cubic feet.

*Minimum Bill.*

Minimum monthly bill per meter for domestic service for flats and apartments where four (4) or more meters are continuously served in one location and on one service-----	35 cents
Minimum monthly bill per meter for domestic and commercial service other than above-----	50 cents

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this nineteenth day of November, 1917.

## DECISION No. 4853.

IN THE MATTER OF THE APPLICATION OF SOUTHERN CALIFORNIA GAS COMPANY FOR AN INCREASE IN AND A GENERAL ADJUSTMENT IN ITS RATES AND CHARGES FOR NATURAL AND ARTIFICIAL GAS TO BE SOLD AND DISTRIBUTED BY IT WITHIN PORTIONS OF THE COUNTIES OF LOS ANGELES, SAN BERNARDINO AND RIVERSIDE, IN THE STATE OF CALIFORNIA.

Application No. 1853.

CITY OF LOS ANGELES

*vs.*

SOUTHERN CALIFORNIA GAS COMPANY AND LOS ANGELES GAS AND ELECTRIC CORPORATION.

Case No. 854.

*Decided November 19, 1917.*

In establishing rates for a gas utility by zones all consumers within the incorporate limits of a municipality should be considered in the same district, otherwise the residents of the same city or town will be compelled to pay different rates for the same class of service; order amended accordingly and the petitions of the cities of Los Angeles and Glendale for rehearing denied.

*Wm. A. Cheney, Paul Overton and Herbert J. Goudge, for Los Angeles Gas and Electric Corporation.*

*Jared How, for Southern California Gas Company.*

*Albert Lee Stephens, for the city of Los Angeles.*

*Clyde Woodworth, for the city of Inglewood and the city of Beverly Hills.*

*W. E. Evans, for the city of Glendale.*

*Geo. E. Farrand and Leonard B. Slosson, for the California Tissue Mills and other industries.*

*L. O. Hatch, for the city of Eagle Rock.*

*Victor T. Watkins, for the city of Burbank.*

*Hartley Shaw, for the city of Tropic.*

*H. A. Decker, for the city of San Fernando.*

*Gesner Williams, for certain undisclosed consumers.*

*EDGERTON, Commissioner.*

## OPINION ON REHEARING.

Applications for rehearing of the order hertofore made fixing the rates and the zones for Southern California Gas Company were filed by the city of Los Angeles and the city of Glendale. Other incorporated cities were represented at the hearing on said applications and protested against the increase of rates fixed by the commission for the service of gas by this company in their communities.

A discussion of these protests has been had in the decision this day made in the matter of the application for rehearing in Application

No. 1830 and for the same reasons the same action will be taken with regard to the rates fixed for these smaller communities.

There was filed at the hearing in this matter a protest by industrial consumers of natural gas attached to the system of this company against the commission in anyway recognizing the ordinance recently passed by the city of Los Angeles whereby it is proposed to compel this company as well as others operating in the city of Los Angeles to serve all consumers of gas, both domestic and industrial, with natural gas unmixed with artificial gas. These protestants take the ground that if domestic consumers were served with natural gas it would diminish the supply available for industrial consumers.

This protest need not be considered at this time as there is nothing before the commission with relation to the service of natural gas to domestic consumers in the city of Los Angeles.

If at any time the matter of natural gas and rates therefor comes before the commission these protestants may then appear and be heard.

For the same reasons set forth in the decision this day made in the matter of the application for rehearing in Application No. 1830 I recommend that the order heretofore made in this matter be modified so that the same rate area or zones applying to the city of Los Angeles which was fixed therein for the service of gas by Los Angeles Gas and Electric Corporation be established for Southern California Gas Company and that the same rates as fixed in said area for said company be fixed for said Southern California Gas Company and that in all other respects the order heretofore made in this matter be made effective without change.

At the hearing representatives of Beverly Hills requested that it be made clear that the rates fixed for District No. 3 of Southern California Gas Company be applied to consumers in that community. The doubt as to whether the rates heretofore fixed applied to Beverly Hills arose because subsequent to the submission of the case and application herein, Southern California Gas Company acquired the property of the company which theretofore had served Beverly Hills and there was some doubt as to whether the rates fixed by the commission or the rates charged by the predecessor company would be in effect.

I recommend as to this that the rates herein fixed include the city of Beverly Hills.

For the sake of clarity and simplicity the rates for the districts are restated as amended.

#### ORDER.

The Railroad Commission having heretofore, on August 21, 1917, made and filed its opinion and order herein and the city of Los Angeles and the city of Glendale having petitioned for a rehearing, and the

Railroad Commission having thereafter extended the effective date of said order of August 21, 1917, pending its final conclusion on the petitions for rehearing, and evidence and argument having been received at public hearings on the question of whether rehearing should be granted and parties having stipulated that the evidence and arguments thus submitted should be considered to be the evidence and arguments which should be submitted in case a rehearing was granted, and the commission having given careful consideration to all the evidence herein presented and the matter now being ready for decision, the Railroad Commission hereby finds as a fact that the rates herein prescribed to be charged by Southern California Gas Company in the various districts set forth are just and reasonable rates and that the rates now charged by Southern California Gas Company are unjust and unreasonable in so far as they differ from the rates herein established.

Basing its order on the foregoing finding of fact and upon the additional findings of fact which are contained in the opinion which precedes this order,

*It is hereby ordered* as follows:

1. The petition of the city of Los Angeles for rehearing is hereby denied.

2. The petition of the city of Glendale for rehearing is hereby denied.

*It is hereby further ordered* that Southern California Gas Company file with the Railroad Commission within twenty days from the date of this order and make effective for all meter readings made on and after December 5, 1917, the following schedules for rates for gas:

#### GAS RATE SCHEDULE No. 1.

##### *Territory.*

This schedule applies to Rate District No. 1, which includes the following territory:

That portion of the city of Los Angeles designated as follows:

- (a) Original city as incorporated in 1850.
- (b) Extension of June 1, 1869.
- (c) City of Hollywood Addition.
- (d) East Hollywood Addition.
- (e) Colegrove Addition.
- (f) Western Addition.
- (g) University Addition.
- (h) Palms Addition east of N. and S. section line extended, between Sec. No. 16 and Sec. No. 17, Twp. 1 S., R. 14 W., S. B. B. and M.
- (i) Southern Addition.
- (j) Shoestring Addition north of northern section line of Secs. 31, 32 and 33, Twp. 2 S., R. 13 W., and Secs. 35 and 36, Twp. 2 S., R. 14 W., S. B. B. and M.
- (k) Bairdstown Addition.
- (l) Highland Park Addition.
- (m) Garvanza Addition.
- (n) Arroyo Seco Addition.
- (o) Occidental Addition.

*Character of Service.*

This schedule applies to sale of "S15 B. t. u." gas for domestic and commercial service for lighting, cooking, heating, etc.

*Rate.*

First	5,000 cubic feet per meter per month,	68 cents per 1,000 cubic feet
Next	5,000 cubic feet per meter per month,	65 cents per 1,000 cubic feet
Next	15,000 cubic feet per meter per month,	55 cents per 1,000 cubic feet
Next	25,000 cubic feet per meter per month,	50 cents per 1,000 cubic feet
Over	50,000 cubic feet per meter per month,	45 cents per 1,000 cubic feet

*Minimum Bill.*

Minimum monthly bill per meter for domestic service for flats and apartments where four (4) or more meters are continuously served in one location and on one service	35 cents.
Minimum monthly bill per meter for domestic and commercial service other than above	50 cents.

## GAS RATE SCHEDULE NO. 2.

*Territory.*

This schedule applies to Rate District No. 2, which includes the following territory:

- Incorporated territory of  
 (a) City of Glendale.  
 (b) City of Tropic.

*Character of Service.*

This schedule applies to sale of "S15 B. t. u." gas for domestic and commercial service for lighting, cooking, heating, etc.

*Rate.*

First	3,000 cubic feet per meter per month,	80 cents per 1,000 cubic feet
Next	7,000 cubic feet per meter per month,	70 cents per 1,000 cubic feet
Next	15,000 cubic feet per meter per month,	60 cents per 1,000 cubic feet
Next	25,000 cubic feet per meter per month,	50 cents per 1,000 cubic feet
Over	50,000 cubic feet per meter per month,	45 cents per 1,000 cubic feet

*Minimum Bill.*

Minimum monthly bill per meter for domestic service for flats and apartments where four (4) or more meters are continuously served in one location and on one service	35 cents.
Minimum monthly bill per meter for domestic and commercial service other than above	50 cents.

## GAS RATE SCHEDULE NO. 3.

*Territory.*

This schedule applies to Rate District No. 3, which includes the following territory:

- (1) That part of the city of Los Angeles not included in District No. 1 served by Southern California Gas Company.
- (2) Incorporated territory of
  - (a) Eagle Rock.
  - (b) Vernon.
- (3) All incorporated and unincorporated territory which is served by Southern California Gas Company, and not included or listed in Districts 1 and 2.

*Character of Service.*

This schedule applies to sale of "S15 B. t. u." gas for domestic and commercial service for lighting, cooking, heating, etc.

*Rate.*

First	3,000 cubic feet per meter per month,	85 cents per 1,000 cubic feet
Next	7,000 cubic feet per meter per month,	70 cents per 1,000 cubic feet
Next	15,000 cubic feet per meter per month,	60 cents per 1,000 cubic feet
Next	25,000 cubic feet per meter per month,	50 cents per 1,000 cubic feet
Over	50,000 cubic feet per meter per month,	45 cents per 1,000 cubic feet

*Minimum Bill.*

Minimum monthly bill per meter for domestic service for flats and apartments where four (4) or more meters are continuously served in one location and on one service	35 cents.
Minimum monthly bill per meter for domestic and commercial service other than above	50 cents.

## GAS RATE SCHEDULE NO. 4.

## NATURAL GAS.

*Territory.*

This schedule applies to all territory not included in Districts Nos. 1 and 2 served with natural gas, including:

Incorporated territory of

- (a) San Fernando.
- (b) Burbank.
- (c) Compton.
- (d) Vernon.

*Character of Service.*

This schedule applies to sale of natural gas for domestic and commercial service for lighting, cooking, heating, etc.

*Rate.*

First	5,000 cubic feet per meter per month,	85 cents per 1,000 cubic feet
Next	5,000 cubic feet per meter per month,	75 cents per 1,000 cubic feet
Next	15,000 cubic feet per meter per month,	65 cents per 1,000 cubic feet
Next	25,000 cubic feet per meter per month,	55 cents per 1,000 cubic feet
Next	50,000 cubic feet per meter per month,	45 cents per 1,000 cubic feet
Over	100,000 cubic feet per meter per month,	40 cents per 1,000 cubic feet

*Minimum Bill.*

Minimum monthly bill per meter for domestic service for flats and apartments where four (4) or more meters are continuously served in one location and on one service	35 cents.
Minimum monthly bill per meter for domestic and commercial service other than above	50 cents

## GAS RATE SCHEDULE S-1.

## SURPLUS NATURAL GAS.

*Territory.*

This schedule applies to entire territory traversed by natural gas mains where capacity of mains is sufficient to supply demands without detriment to existing service.

*Character of Service.*

This schedule applies only to the sale of excess natural gas for industrial use in internal combustion engines, and for industrial use in packing houses, canneries, ice plants, laundries, machine shops, foundries, etc., whose hours or period of heavy demand, if any, are not coincident with the heavy demand of the domestic consumers. This is not applicable to heating of hotels, apartments, flats or residences. Service



is subject to discontinuance without notice in case of shortage of gas, in which case service to domestic and commercial consumers and service to other utilities for domestic and commercial consumers shall have precedence over this service.

*Rate.*

Where the consumer guarantees a monthly minimum of \$75.00 the rate will be 30 cents per 1,000 cubic feet.

Where the consumer guarantees a monthly minimum of \$150.00 the rate will be 25 cents per 1,000 cubic feet.

Where the consumer guarantees a monthly minimum of \$200.00 the rate will be 20 cents per 1,000 cubic feet.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the state of California.

Dated at San Francisco, California, this nineteenth day of November, 1917.

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DECISION No. 4854.

IN THE MATTER OF THE APPLICATION OF INDIAN VALLEY RAILROAD COMPANY FOR AN ORDER AUTHORIZING IT TO SELL FIFTEEN HUNDRED (1,500) SHARES OF ITS CAPITAL STOCK.

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Application No. 3217.

*Decided November 19, 1917.*

A railroad company which desires to issue its capital stock for the purposes of building a hotel at the junction points where its line connects with another road is required to stipulate that the cost of such hotel will not be included in the cost of its operative properties for rate fixing or other purposes.

Applicant authorized to issue \$150,000.00 par value of its common capital stock, to be sold at not less than par, proceeds to be used to discharge indebtedness and for additions and improvements to system.

*I. J. Truman, Jr., for Applicant.*

*GORDON, Commissioner.*

**OPINION.**

In this application Indian Valley Railroad Company asks authority to issue \$150,000.00 par value of its common capital stock at par. Applicant proposes to use the proceeds from the sale of its stock for the following purposes:

Pay indebtedness due Engels Copper Mining Company.....	\$101,000 00
Pay indebtedness due The Western Pacific Railroad Company..	10,000 00
Purchase terminal properties at Paxton.....	7,500 00
Build and furnish hotel at Paxton.....	15,000 00
Build cottages for employees at Paxton.....	8,000 00
Build depot at Veramont.....	1,000 00
Pay one-half of the cost of depot at Paxton.....	1,500 00
Build roundhouse at Paxton.....	1,500 00
Build section houses at Paxton.....	1,500 00
Purchase an additional passenger coach.....	2,500 00

Applicant as stated in Decision No. 3886, dated November 18, 1916 (Vol. 11, Opinions and Orders of the Railroad Commission of the State of California, page 998), is engaged in constructing a standard gauge railroad from a point on the Western Pacific near Keddie in Plumas County, known as Paxton, northerly to Lower Camp in said county, a distance of 21.2 miles. While trains are being operated at present there remains some minor construction work such as the construction of section houses, terminal facilities and ballasting to be done. It was originally estimated that this road would cost \$325,000.00. Engels Copper Mining Company and Standard Realty and Development Company have entered into an agreement whereby the former agreed to subscribe for \$250,000.00, the latter for \$75,000.00 of applicant's stock. In addition, the mining company agreed to furnish all additional funds necessary to build and equip the road.

By Decision No. 3886, the commission authorized applicant to issue \$335,000.00 of stock, \$10,000.00 of which applicant was permitted to issue to Elmer E. Paxton for services rendered or to be rendered in connection with the promotion and organization of the Indian Valley Railroad Company. All of this stock has been issued.

Applicant now reports that because of the delay in getting materials, unusual weather conditions, increase in prices and the advisability of purchasing equipment instead of leasing the same, the cost of the road up to September 1, exceeded \$425,000.00. To defray the additional expense of construction, Engels Copper Mining Company has advanced to applicant \$96,000.00 in cash and \$5,000.00 worth of merchandise, while there is due the Western Pacific Railroad Company \$10,000.00 for materials and work done.

Applicant desires to purchase for terminal facilities 80 acres of land known as the Iron Bar property and pay therefor \$7,500.00. Applicant reports that a part of this property is now being used by it and that all of said property is necessary for its operation and the only tract available for terminal purposes at Paxton.

As above stated applicant desires to use \$15,000.00 of the proceeds from the sale of its stock to build and furnish a hotel at Paxton, the junction point between applicant's road and the Western Pacific. Applicant reports that it is inadvisable to arrange its train schedule so as to make direct connection with the Western Pacific at Paxton and that some accommodation must be furnished at this point to the traveling public. It has filed with the commission a stipulation in which it agrees that it will not include in the cost of its operative property for the purpose of fixing passenger or freight rates, the cost of its hotel property.

I recommend that this application be granted and herewith submit the following form of order:

**ORDER.**

Indian Valley Railroad Company having filed an application with the Railroad Commission for authority to issue \$150,000.00 par value of its common capital stock, and a hearing having been held, and the commission being of the opinion that the money, property or labor to be procured or paid for by such issue is reasonably required for the purpose or purposes specified in the order and that the expenditures for such purpose or purposes are not in whole or in part reasonably chargeable to operating expenses or to income,

*It is hereby ordered* that Indian Valley Railroad Company be and it is hereby granted authority to issue at not less than par \$150,000.00 par value of its common capital stock on the following conditions and not otherwise:

1. The proceeds obtained from the sale of the stock herein authorized to be issued shall be used for the following purposes:

To pay indebtedness due Engels Copper Mining Company.....	\$101,000 00
To pay indebtedness due The Western Pacific Railroad Company	10,000 00
To purchase the so-called Iron Bar property for terminal purposes at Paxton .....	7,500 00
To pay for the construction and furnishing of a hotel at Paxton..	15,000 00
To pay for the construction of cottages for employees at Paxton..	8,000 00
To pay for the construction of a depot at Veramont.....	1,000 00
To pay one-half of the construction cost of depot at Paxton.....	1,500 00
To construct a roundhouse at Paxton.....	1,500 00
To pay for the construction of section houses.....	1,500 00
To pay for an additional passenger coach.....	2,500 00

2. Indian Valley Railroad Company shall keep separate, true and accurate accounts showing the receipt and application in detail of the proceeds of the sale of the stock herein authorized to be issued; and on or before the twenty-fifth day of each month the company shall make verified reports to the Railroad Commission stating the sale or sales of said stock during the preceding month, the terms and conditions of the sale, the moneys realized therefrom, and the use and application of such moneys, all in accordance with this commission's General Order No. 24, which order, in so far as applicable, is made a part of this order.

3. The authority herein granted to issue stock shall apply only to such stock as shall be issued on or before March 1, 1918.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the state of California.

Dated at San Francisco, California, this nineteenth day of November, 1917.

## DECISION No. 4855.

IN THE MATTER OF THE APPLICATION OF THE SAN DIEGO CONSOLIDATED GAS AND ELECTRIC COMPANY FOR AUTHORITY TO ISSUE, SELL AND DISPOSE OF PREFERRED STOCK, BONDS AND NOTES.

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Application No. 3071.

*Decided November 19, 1917.*

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BY THE COMMISSION.

**SECOND SUPPLEMENTAL ORDER.**

Applicant in the above-entitled matter having reported to the Railroad Commission that it has expended for capital purposes during the months of September and October, 1917, the sum of \$257,961.39, and that under its deed of trust dated March 1, 1909, it is authorized to pledge the \$165,000.00 face value of bonds referred to in condition No. 2 of the order in Decision No. 4629, dated September 8, 1917, and the Railroad Commission being of the opinion that applicant should be permitted to pledge said \$165,000.00 face value of bonds,

*It is hereby ordered* that San Diego Consolidated Gas and Electric Company be and it is hereby authorized to pledge the \$165,000.00 face value of bonds referred to in condition No. 2 of the order in Decision No. 4629, dated September 8, 1917, to secure in part the payment of the \$400,000.00 face value of two-year 6 per cent notes authorized to be issued in said Decision No. 4629, the authority herein given to pledge said bonds being upon the following conditions:

(1) The proceeds of the notes issued pursuant to the pledging of the \$165,000.00 face value of bonds in accordance with the order in Decision No. 4629, shall be used by applicant to pay, so far as possible, the accounts payable filed with the Railroad Commission on November 16, 1917.

(2) The order in Decision No. 4629, as amended, shall remain in full force and effect, except as modified by this second supplemental order.

Dated at San Francisco, California, this nineteenth day of November, 1917.

## DECISION No. 4856.

IN THE MATTER OF THE APPLICATION OF THE COUNTY OF ALAMEDA FOR AN ORDER DIRECTING THAT COUNTY ROAD No. 4201 IN WASHINGTON ROAD DISTRICT, WASHINGTON TOWNSHIP, ALAMEDA COUNTY, CALIFORNIA, BE EXTENDED AT GRADE ACROSS THE RAILROAD TRACKS OF THE SAN JOSE BRANCH OF THE CENTRAL PACIFIC RAILWAY.

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Application No. 3221.

*Decided November 19, 1917.*

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County of Alameda authorized to construct a road crossing at grade across the tracks of Central Pacific Railway Company, such crossing to be protected by usual crossing signs.

*W. H. L. Hynes*, for Applicant.

*George D. Squires*, for Southern Pacific Company.

*GORDON*, Commissioner.

**OPINION.**

The crossing which Alameda County seeks to open under this application is on the road leading between the Irvington Warm Springs road and the Mission-San Jose road, and is known as County road No. 4201. It has been a public road on both sides of the railroad reservation for a number of years, but the actual crossing over the track has been and is now a private one protected with farm gates. There are some eight or nine families living along this road who have no means of crossing the track except by this crossing, and there is no question but that the commission should permit it to be opened.

The commission's engineering department reports that the view at the intersections of the road with the track is comparatively open and that no protection is needed other than the usual crossing sign.

I recommend the following form of order:

**ORDER.**

Alameda County having applied to the commission for permission to construct Road No. 4201 at grade over the tracks of the San Jose branch of the Central Pacific Railway, and a public hearing having been held, it is hereby ordered that this application be granted, subject to the usual conditions, viz:

(1) The entire expense of constructing the crossing shall be borne by applicant. The expense of its maintenance thereafter shall be borne by applicant, except for that portion between the rails and two (2) feet outside thereof which shall be borne by the Central Pacific Railway.

(2) Said crossing shall be constructed of a width and type to conform to that portion of the road now graded, with grades of approach not exceeding four (4) per cent; shall be protected by a suitable cross-

ing sign, and shall in every way be made safe for the passage thereover of vehicles and other road traffic.

3. The commission reserves the right to make such further orders relative to the location, construction, operation, maintenance and protection of said crossing as to it may seem right and proper, and to revoke its permission if, in its judgment, the public convenience and necessity demand such action.

Dated at San Francisco, California, this nineteenth day of November, 1917.

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DECISION No. 4857.

IN THE MATTER OF THE APPLICATION OF A. T. KUYKENDALL AND  
O. A. DIETSCHE FOR CERTIFICATE OF PUBLIC CONVENIENCE  
AND NECESSITY TO OPERATE STAGE SERVICE BETWEEN LOS  
ANGELES AND SAN PEDRO AND INTERMEDIATE POINTS.

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Application No. 3218.

*Decided November 19, 1917.*

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Applicants' petition for a certificate permitting the operation of an auto bus line between Los Angeles and San Pedro, denied on the grounds that passenger traffic between such points is already adequately served by an existing auto line and the electric railway serving such points.

*Haas & Dunnigan and A. T. Kuykendall, for Applicants.*

*Chas. Winburn, for E. C. Leak, operating Harbor Line, Protestant.*

*R. C. Gortner, for Pacific Electric Railway Company, Protestant.*

*F. D. Howell, chief engineer, Board of Public Utilities, for city of  
Los Angeles.*

BY THE COMMISSION.

**OPINION.**

Petitioners, partners in business, ask the Railroad Commission to make its order declaring that public convenience and necessity require the operation by petitioners of an automobile stage service between Los Angeles and San Pedro and intermediate points, all in Los Angeles County.

A public hearing herein was held before Examiner Westover at Los Angeles on October 2, 1917.

Petitioners propose to operate a daily schedule of twelve round trips between Los Angeles and San Pedro via Gardena and Wilmington over the following route: Sixth and Main streets, Los Angeles, via Los Angeles street to Washington street, Washington street to Main street, Main street to and along Harbor boulevard to Front and Fifth streets, San Pedro.

Petitioners propose to charge fares in accordance with the following schedule:

	One way	Round trip
Los Angeles to San Pedro-----	\$0 35	\$0 50
Los Angeles to Wilmington-----	35	50
Los Angeles to Gardena-----	25	40
San Pedro to Los Angeles-----	35	50
San Pedro to Wilmington-----	10	20
San Pedro to Gardena-----	25	40
Wilmington to Gardena-----	20	35

It appears that petitioners desire to establish the stage service for the reason that their observation of the service rendered by an existing line has indicated that prospective passengers have been unable to obtain accommodations during rush hours and that in some instances scheduled runs on the existing line were not performed. In view of the fact that a portion of the public traveling between Los Angeles and San Pedro desire transportation by automobile, petitioners considered the route a desirable one and for which a public need existed. Applicants expect 75 per cent of their business to be through business between Los Angeles and San Pedro and the remaining 25 per cent to originate at points along the Harbor boulevard. No other showing of public convenience and necessity was offered in this proceeding.

At the time application was filed in this proceeding no certificates had been obtained from the city of Los Angeles and the county of Los Angeles as required by the provisions of section 3 of chapter 213 of the laws of 1917, although it appeared at the hearing that a permit had since been issued by the board of public utilities of the city of Los Angeles.

The identical route for which certificate of public convenience and necessity is requested is now served by the Harbor Auto Line, and in addition service between Los Angeles and San Pedro is afforded by the Pacific Electric Railway Company which operates 29 daily trains, San Pedro to Los Angeles, and 30 daily trains, Los Angeles to San Pedro, on its main line. In addition service is also given via Hermosillo of 20 trains daily in each direction.

Mr. S. M. Storer, the secretary of the San Pedro Chamber of Commerce, testified that from his observation the frequent service rendered by the Pacific Electric Railway Company gave general satisfaction and that he knew of no demand for additional automobile stage service as proposed by petitioners.

The Pacific Electric Railway Company through its traffic manager, Mr. D. W. Pontius, objected to the granting of the certificate on the ground that their service via a choice of two lines was adequate and that if increased service was justified their facilities were ample to care for same.

It appears that about a year ago fifteen automobiles were engaged in the passenger stage service between Los Angeles and San Pedro. At the present time but three are operated, all by the Harbor Auto Line.

After careful consideration of the evidence in this proceeding, we are of the opinion and hereby find as a fact that public convenience and necessity do not require the operation of an automobile stage line for the carriage of passengers between Los Angeles and San Pedro by the petitioners herein.

#### ORDER.

A. T. Kuykendall and O. A. Dietsche having filed herein a petition asking that the Railroad Commission declare that public convenience and necessity require the operation by said petitioners of an automobile stage line for the carriage of passengers between Los Angeles and San Pedro and intermediate points, a public hearing having been held thereon, and the matter being duly submitted and now ready for decision, the Railroad Commission hereby finds as a fact that public convenience and necessity do not require the establishment of said service.

*It is hereby ordered* that this application be and the same hereby is denied.

Dated at San Francisco, California, this nineteenth day of November, 1917.

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#### DECISION No. 4858.

IN THE MATTER OF THE APPLICATION OF THE MONTICELLO STEAMSHIP COMPANY FOR AUTHORITY TO INCREASE ALL FREIGHT RATES APPLYING BETWEEN SAN FRANCISCO AND VALLEJO.

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Application No. 2928.

*Decided November 19, 1917.*

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Investigation in applicant's financial condition showing that its present revenues are adequate and that it is not in need of additional revenues at this time, petition to increase freight rates between San Francisco and Vallejo 15 per cent denied.

*Sanborn & Roehl*, for Applicant.

*Seth Mann*, for San Francisco Chamber of Commerce.

BY THE COMMISSION.

#### OPINION.

The Monticello Steamship Company alleges that its existing freight rates between San Francisco and Vallejo are unremunerative and wholly inadequate for the service performed, because of the greatly increased cost of operation, and by its petition seeks authority to increase the rates 15 per cent.

Petitioner operates vessels between San Francisco and Vallejo. Its competitors at Vallejo are the Southern Pacific Company and the



Napa Transportation Company, while freight is handled for points beyond Vallejo in connection with the San Francisco, Napa and Calistoga Railway Company.

Exhibit No. 1, submitted at a hearing held in San Francisco June 27, 1917, gives the actual revenues and expenses for the year 1916, and an estimate to cover the year 1917 on the assumption that the request to increase rates is granted.

The complete exhibit is set forth below:

<i>Operating Revenue.</i>	<b>Calendar Year.</b>	
	1916 (actual).	1917 (estimated).
Freight -----	\$56,479 95	\$64,951 94
Passenger -----	190,305 84	201,724 19
Other revenue -----	66,656 23	70,655 60
	<hr/> \$313,442 02	<hr/> \$337,331 73
Increase in operating revenue -----		<hr/> \$23,889 71
<i>Operating Expenses.</i>		
Transportation -----	\$146,511 95	\$164,120 86
Incidental -----	2,782 00	-----
Maintenance of equipment and depreciation -----	52,790 81	57,840 48
Traffic -----	4,322 70	4,393 45
Terminal -----	16,727 16	18,590 71
Maintenance terminal -----	10,004 59	12,151 46
General -----	41,312 97	47,376 90
	<hr/> \$274,452 18	<hr/> \$304,473 86
Net operating revenue -----	<hr/> \$38,989 84	<hr/> \$32,857 87
Revenue from shops -----	\$4,482 25	\$4,482 25
Interest on depreciation reserve --	2,395 25	2,395 25
	<hr/> 6,877 50	<hr/> 6,877 50
Gross income -----	<hr/> \$45,867 34	<hr/> \$39,735 37
Taxes -----	\$2,693 81	\$2,693 81
Rents -----	8,562 72	8,562 72
	<hr/> 11,256 53	<hr/> 11,256 53
Net income -----	<hr/> \$34,610 81	<hr/> \$28,478 84

It will be noted that the actual net income for 1916 was \$34,610.81 and that the estimated net income for 1917 is assumed to be \$28,478.84.

Petitioner's operating revenue is derived from three sources—freight, passenger and other business, the last item embracing receipts from meals, buffet, excess baggage, express and excursions, all of which are incidental to passenger service, thus making the total \$256,962.07 from passenger business and incidentals thereto during the year 1916, while the freight revenue was but \$56,479.95, indicating that the operations of this boat line are primarily for the handling of passenger traffic.

Operating expenses, including depreciation, in 1916, were \$274,452.18 and they are estimated at \$304,473.86 for the year 1917. The

increase of \$30,021.68, or 10.94 per cent, is attributable to advanced cost of supplies and materials, ranging from 10 to 50 per cent, and increases in wages of 10 per cent. It is to be noted that the estimated increase in freight revenue is based on the proposed 15 per cent increase in rates, while the passenger revenue is increased arbitrarily 6 per cent.

As the 1917 figures, set forth in Exhibit No. 1, are purely speculative, the commission called for a comparative statement, showing the actual revenues and expenses, the latter in detail, for the first five months of the years 1916 and 1917. It was stipulated herein that all reports filed prior to the decision should be part of the record.

From the statistical data furnished by applicant, supplemented by information taken from the annual report and from a special report rendered by this commission's auditing department, the following tables have been compiled:

#### Operating Revenues and Expenses.

<i>Operating Revenue.</i>	Year ending Dec. 31, 1915.	Year ending Dec. 31, 1916.	Nine months ending Sept. 30, 1917.	Oct. 1 to Estimated for three months, Dec. 31, 1917.	Estimated for 1917.
Freight -----	\$54,228 17	\$56,479 95	\$46,692 06	\$15,564 02	\$62,256 08
Passenger -----	222,009 14	190,324 84	194,393 92	64,797 97	259,191 89
Meals -----	33,956 05	32,512 40	34,408 35	11,469 45	45,877 80
Excess baggage --	184 22	234 95	222 42	74 14	296 56
Bar and concession	22,262 96	19,187 49	14,908 57	4,969 52	19,878 00
Express -----	7,550 03	7,856 20	5,753 40	1,917 80	7,671 20
Excursion -----	9,336 00	1,383 00	1,375 00	458 33	1,833 33
Dock revenue ---	4,794 64	5,413 49	4,568 93	1,522 97	6,091 90
<b>Total operating revenue -----</b>	<b>\$354,411 21</b>	<b>\$313,392 32</b>	<b>\$302,322 65</b>	<b>\$100,774 20</b>	<b>\$403,096 85</b>
<i>Operating Expenses.</i>					
General expenses--	\$57,105 89	\$70,871 80	\$46,449 56	\$15,483 18	\$61,932 74
Wages -----	92,921 20	99,024 58	81,255 30	27,085 10	108,340 40
Fuel -----	42,033 12	30,994 15	24,456 58	8,152 19	32,608 77
Repairs -----	29,931 88	22,869 01	13,690 29	4,563 43	18,253 72
Salaries general					
officers -----	14,135 00	15,500 00	12,750 00	4,250 00	17,000 00
Rent -----	7,755 55	8,562 72	6,506 38	2,168 79	8,675 17
Taxes -----	2,312 81	2,693 81	1,823 74	607 91	2,431 65
	\$246,195 45	\$250,516 07	\$186,931 85	\$62,310 60	\$249,242 45
Depreciation ---	32,769 96	35,192 64	-----	-----	35,192 64
<b>Total operating expenses -----</b>	<b>\$278,965 41</b>	<b>\$285,708 71</b>	-----	-----	<b>\$284,435 09</b>
<b>Net operating revenue -----</b>	<b>\$75,445 80</b>	<b>\$27,683 61*</b>	-----	-----	<b>\$118,661 76</b>
<b>Nonoperating revenue -----</b>	<b>8,754 68</b>	<b>6,877 50</b>	-----	-----	<b>6,877 50</b>
<b>Net income for year -----</b>	<b>\$84,200 48</b>	<b>\$34,561 11</b>	-----	-----	<b>\$125,539 26</b>

\*Affected by labor strike during 1916.

**Depreciation Reserve.**

(As set up by applicant, 1912 to 1916, inclusive.)

Steamer	1912	1913	1914	1915	1916	Total
Napa Valley .....	\$5,782 30	\$9,000 00	\$16,000 00	\$16,000 00	\$16,000 00	\$63,382 30
Schome .....	2,223 20	4,500 00	690 20	2,189 96	4,500 60	14,013 36
General Frisbie .....	3,203 19	6,279 00	5,790 00	5,790 00	5,759 96	26,765 15
Arrow .....	3,112 44	4,500 00	3,900 00	3,600 00	3,600 00	18,412 44
Wharves and buildings .....	2,363 92	3,000 00	3,000 00	3,021 00	3,641 54	14,426 46
Equipments .....	-----	180 60	180 00	196 75	277 24	833 99
Furniture and fixtures .....	503 55	390 00	390 00	415 97	447 30	2,066 82
Shop .....	1,053 69	1,509 00	1,509 00	1,586 28	1,566 60	7,237 57
Totals .....	\$18,258 29	\$29,928 00	\$31,000 20	\$32,709 96	\$35,192 64	\$147,158 09

**Dividends Paid.**

	In cash.	In capital stock.	Per cent.	Capital stock.
1905 .....	\$6,000 00		3	\$200,000 00
1906 .....	10,000 00		5	200,000 00
1907 .....	6,000 00		3	200,000 00
1908 .....	20,000 00		10	200,000 00
1909 .....	12,000 00		6	200,000 00
1910 .....	12,000 00		6	200,000 00
1911 .....	12,000 00		6	200,000 00
1912 .....	12,000 00		6	200,000 00
1913 .....	24,000 00		12	200,000 00
1914 .....	50,000 00		25	200,000 00
1915 .....	-----	\$400,000 00	200	200,000 00
1915 .....	60,000 00		30	200,000 00
1916 .....	36,000 00		18	200,000 00

Total .....

\$260,000 00	\$400,000 00	Total dividends paid.....\$660,000 00
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NOTE.—On October 25, 1915, capital stock increased from \$200,000.00 to \$600,000.00 par value, \$400,000.00 being paid in dividends, as set forth above.

A witness for petitioner testified that the present value of the property devoted to this service is \$1,100,000.00 and that the same should return 8 or 10 per cent interest on account of the hazards of the business. This valuation is, no doubt, based on the inflated war prices. In petitioner's annual report for the year ending December 31, 1916, the value is given as \$668,338.74, divided as follows:

Floating equipment .....	\$551,000 00
Wharves and buildings .....	51,078 47
Wharf equipment .....	5,002 46
Terminal grounds .....	20,310 73
Other grounds .....	6,856 13
Furniture and fixtures .....	7,455 04
Shops and oil tanks .....	26,635 91
	<hr/>
	\$668,338 74

The floating equipment consists of four steamers, viz: Napa Valley, Schome, General Frisbie and Arrow. The first two are in regular service, while the others are used infrequently, either to relieve the regular steamers or for special work.

The record does not disclose the actual investment in the property, but we may presume that in 1905 it equalled the face value of the capital stock, or \$200,000.00. During the twelve years covered by the

table headed "Dividends Paid," the applicant enjoyed unusual prosperity, paying dividends each year ranging from 3 to 30 per cent, totaling, in cash, \$260,000.00, or an average of 13 per cent per annum. In 1915 it distributed a 200 per cent stock dividend, having a face value of \$400,000.00. There are now outstanding 6,000 shares of stock valued at \$100.00 per share, or a total of \$600,000.00, while the property, as heretofore shown, has a book value of \$668,338.74. There are no bonds or other indebtedness.

In addition to the cash dividends paid, the company had, at the end of the year 1916, an accumulated depreciation fund of \$147,158.09 and a surplus of \$59,610.05.

The estimated net income for 1917, based on actual results for the first nine months of the period, will approximate \$125,000.00, which represents nearly 21 per cent of the capital stock. It will be noted that the estimated operating revenue for 1917 will be \$89,704.55 greater than in 1916 and \$48,685.64 greater than in 1915. In making the estimates for 1917 the same amount is allowed for the depreciation fund as was set aside by applicant in 1916 and there is also no change made in the income from nonoperating property, although the actual results of these two items may vary to some slight extent. The commission has not gone into the merits of the deductions for depreciation but, superficially, they appear greatly in excess of applicant's requirements.

More or less testimony was introduced tending to show the ascending cost of supplies, as well as wages, due to the war conditions, but these same war conditions have greatly increased passenger travel between San Francisco and Vallejo (Mare Island Navy Yard) during 1917, and while some items of expense have materially increased the grand total of expenses has remained fairly constant, as illustrated by the preceding exhibit.

Applicant failed to prove by any testimony or exhibits that the existing freight rates are too low, *per se*, or that the proposed rates would be just and reasonable and, certainly, the financial condition of the company does not suggest a necessity for increases in revenue at this time.

An order will be issued denying the petition herein.

#### ORDER.

Application having been made by the Monticello Steamship Company for permission to increase its freight rates by 15 per cent, and a public hearing having been held and the commission being fully apprised in the premises,

*It is hereby ordered* by the Railroad Commission of the state of California that said application be and the same is hereby dismissed.

Dated at San Francisco, California, this nineteenth day of November 1917

DECISION No. 4859.  
ANDREW JACKSON ET AL.  
vs.  
SOUTHERN PACIFIC COMPANY.

Case No. 1153.

*Decided November 19, 1917.*

Petition of complainants that the commission compel Southern Pacific Company to construct and maintain an agency station at the town of Las Flores, denied on the grounds that the small amount of freight moving to and from such point does not justify the expenditure necessary to construct and maintain an agency station, especially when shipments are adequately handled at a station approximately one-half mile distant.

*M. J. Cheatham*, for Complainants.

*Geo. D. Squires*, for Defendant.

GORDON, *Commissioner*.

OPINION.

The complainants in this proceeding allege that defendant refuses to establish a freight and passenger station at the town of Las Flores and ask for an order of the Railroad Commission requiring defendant to establish and maintain a station with a depot for the receiving and discharging of passengers and freight at said Las Flores townsite.

Defendant filed its answer denying the material allegations of the complaint.

A public hearing was held at Las Flores on November 15, 1917, the matter was duly submitted and is now ready for decision.

The townsite of Las Flores is located on the east side of the right of way of the Southern Pacific Company in Tehama County, the principal settlement being approximately one and one-quarter miles from the agency station of Gerber and approximately one-half mile from the nonagency station of Proberta. The townsite has been established about one and one-half years and now contains twenty-one residences, a grocery store and an office building. The present population consists of ninety persons. Practically all the male population is employed by the Southern Pacific Company at Gerber where a division terminal is maintained.

It was developed at the hearing that in addition to a station and a depot, the services of an agent were also desired by the complainants. Complainants offered testimony as to difficulty experienced in transacting business at the agency station of Gerber, especially in the winter months when the roads were stated to be at times impassable. Objection was made to the transaction of business at Proberta for the reason that no agent was maintained at that point and shipments arriving required

to be prepaid. It appears, however, that a freight shed exists at this point and that incoming shipments are placed therein by train crews and are secure against pilferage and inclement weather, consignees procuring key from an authorized custodian at Proberta when calling for their shipments.

No testimony was offered justifying the erection of station facilities and the employment and maintenance of an agent at this point. There is but one store in the townsite and the incoming shipments for such store and outgoing shipments of cream to San Francisco in 50-gallon lots forwarded two or three times per week, and of honey in aggregate lots of 1,000 pounds per month during eight months of the year, appear to be all the freight offering, earload shipments of outbound grain being made from the nonagency station of Proberta which is located closer to the producers of grain than the townsite of Las Flores.

In view of the testimony of witnesses at the hearing of this case, I am of the opinion and find as a fact that the expenditure necessary to establish a station, erect a depot and thereafter install and maintain an agent as desired by complainants is entirely unjustified.

I recommend the following form of order:

#### ORDER.

A public hearing having been held in the above-entitled proceeding the matter having been duly submitted and the commission being fully advised and basing its order on the finding of fact as contained in the foregoing opinion,

*It is hereby ordered* that this complaint be and the same hereby is dismissed.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the state of California.

Dated at San Francisco, California, this nineteenth day of November, 1917.

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#### DECISION No. 4860.

IN THE MATTER OF THE APPLICATION OF WELLS FARGO AND COMPANY FOR AUTHORITY TO INCREASE EXPRESS RATES.

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Application No. 1949.

*Decided November 19, 1917.*

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Upon a showing by applicant that its increases in gross revenue have not kept pace with increases in operating expenses and also owing to the increased percentages which it is obliged to pay the railroads under new contracts recently

consummated, it is entitled to an increase in rates, following increases authorized to become effective within thirty days: 1 to 5 pounds, 5 cents; 6 to 29 pounds, 4 cents; 30 to 49 pounds, 3 cents; 50 to 70 pounds, 2 cents; 71 to 99 pounds, 1 cent, on all first-class shipments, and 75 per cent of the above increases on all second-class shipments under 100 pounds, moving between points in California.

*Charles W. Stockton and Pillsbury, Madison & Sutro, by Alfred Sutro, for Wells Fargo & Company.*

BY THE COMMISSION.

### OPINION.

Wells Fargo & Company asks authority to increase its charges on first- and second-class express shipments weighing less than 100 pounds and moving exclusively between California points, as follows:

#### *Proposed Increases on First-class Shipments.*

1 to 5 pounds, inclusive, each shipment	5 cents
6 to 29 pounds, inclusive, each shipment	4 cents
30 to 49 pounds, inclusive, each shipment	3 cents
50 to 70 pounds, inclusive, each shipment	2 cents
71 to 99 pounds, inclusive, each shipment	1 cent

#### *Proposed Increases on Second-class Shipments.*

75 per cent of first-class increases.

Petitioner asks to make effective on California state business the same increases as were authorized by the Interstate Commerce Commission on July 14, 1915, on interstate business. The proposed change in first-class rates is to be effected by transposing the Interstate Commerce Commission's allowance of 20 cents per shipment for collection and delivery service with the rail terminal allowance of 25 cents per 100 pounds.

The petition herein, as originally filed, also asked authority to increase commodity rates on California state business. At the hearings herein, petitioner asked and was granted permission to amend the petition so as to eliminate the request for authority to increase commodity rates.

If petitioner's request is granted, petitioner will receive an increase of approximately 2.35 per cent in its gross revenue from California state business. This percentage, applied to the gross revenue from California state business of \$3,963,623.42 in 1916, would have resulted in an increased gross revenue in that year of \$93,145.15.

Public hearings herein were held in San Francisco on November 13, 1915, April 18, 1916, and September 24, 1917. The matter was first submitted on April 18, 1916. Thereafter petitioner asked that the submission be set aside and that petitioner be permitted to present additional testimony. This request was granted and a further and final hearing was held on September 24, 1917, being the date requested by petitioner. Additional data were filed by petitioner on October 11, 1917. The matter is now ready for decision.

Although notice of the hearings herein was given by publication and by direct advice to all the leading commercial organizations of the state, no one appeared to oppose the granting of the petition.

This commission has heretofore had occasion to make careful investigation into petitioner's business.

In Case No. 122 (Vol. 3, Opinions and Orders of the Railroad Commission of California, p. 228), decided on August 1, 1913, this commission made an exhaustive examination on its own motion into petitioner's entire California business and established the express rates which are now in effect on California state business. See also Vol. 4, Opinions and Orders of the Railroad Commission of California, p. 200, and Vol. 6, Opinions and Orders of the Railroad Commission of California, p. 184. Testimony presented by petitioner herein shows that the effect of the rates thus established was to reduce the gross revenue from petitioner's California express business approximately 15 per cent.

In Application No. 1847 (Vol. 8, Opinions and Orders of the Railroad Commission of California, p. 58), decided on September 10, 1915, this commission, on the testimony therein presented, denied petitioner's request for authority to make effective the rates as to which permission is herein again asked.

In decisions reported in 24 I. C. C. 380 and 28 I. C. C. 131, the Interstate Commerce Commission, after exhaustive investigations, prescribed a uniform schedule of rates, classifications, rules and regulations, effective February 1, 1914, and applicable to the interstate business of all the principal express companies in the United States.

In decision on petition for rehearing, rendered on July 14, 1915, 35 I. C. C. 3-13, the Interstate Commerce Commission authorized the express companies to charge on first- and second-class interstate shipments the increased rates which petitioner now asks authority to charge on California state business.

In Exhibit No. 2, filed by petitioner on November 13, 1915, petitioner reports a net deficit on California state business, after payment of all operating expenses and taxes and an allowance for depreciation annuity, of \$17,861.53 for October, 1914, and \$10,020.91 for March, 1915.

At the hearing on April 18, 1916, petitioner filed as Exhibits Nos. 10 and 12 revised statements of operating expenses and taxes for October, 1914, and March, 1915. These revised exhibits reduce the net deficit claimed by petitioner for these two months as follows:

**October, 1914, net claimed deficit reduced from \$17,861.53 to \$8,094.32.**

**March, 1915, net claimed deficit reduced from \$10,020.91 to net earnings of \$2,893.38.**



In explanation of the reduced deficits for these two months, Mr. J. W. Newlean, petitioner's vice president and comptroller, testified:

"The bases then employed were in some cases short cuts to save the enormous detail, and, after my return to Chicago, I proceeded to test them and I found that they would not stand the test. The principal changes were in the accounts of superintendence and transportation, loss and damage, freight and train employees. There were other accounts in which changes were made but they were minor, and those three accounts cover the principal changes."

At the hearing of April 18, 1916, petitioner also filed as Exhibit No. 13, statement purporting to show a net deficit of \$1,664.60 on California state business for July, 1915.

At the hearing of September 24, 1917, petitioner filed further exhibits purporting to show on California state business a net deficit of \$6,397.01 for April, 1916, and \$35,236.71 for September, 1916.

Whether petitioner has a deficit on its California business and, if so, the extent thereof, depends on the bases of apportionment used in apportioning to California state business the expenses of operation, maintenance and depreciation which are common to that business and also to other business, whether California interstate business or business foreign to California. For instance, there has been considerable difference of opinion with reference to the proper basis of apportionment to be applied in ascertaining the portion of petitioner's general system expense properly chargeable to California state business. In Case No. 122, *supra*, this commission first apportioned these expenses to the state of California on a mileage basis and then divided the result, as between California state and California interstate business, on the piece basis. This method of apportionment was suggested by petitioner in that case. In the present proceeding, however, petitioner in its exhibits first filed used solely the piece basis and in its later exhibits the so-called cost basis, each of which bases results in charging to California state business expenses materially in excess of the charges resulting from the basis suggested by petitioner and used by this commission in Case No. 122. This situation is illustrative of others.

Notwithstanding these differences of opinion between petitioner and this commission with respect to the proper bases of segregation of expenses, we have reached the conclusion that, assuming the correctness of the decision made by this commission in Case No. 122 petitioner, by reason of changed conditions, should be authorized to make the increased charges herein requested.

The commission's conclusion in the present proceeding is based primarily on the fact that increases in petitioner's operating expenses fairly chargeable to its California state business have considerably out-

run the increase in the gross revenue received by petitioner subsequent to this commission's decision of August 1, 1913, in Case No. 122.

The following table shows petitioner's gross revenue from California state business each month from January, 1914, to April, 1917, inclusive:

	1914	1915	1916	1917
January -----	\$244,850 33	\$241,495 08	\$227,290 38	\$280,250 68
February -----	242,810 66	222,234 46	258,026 76	268,013 71
March -----	300,459 53	313,979 19	323,312 41	333,000 40
April -----	293,841 14	322,595 04	336,132 71	339,002 80
May -----	337,291 70	347,256 68	391,302 97	-----
June -----	371,042 35	401,345 61	400,251 79	-----
July -----	340,939 72	369,612 45	370,433 15	-----
August -----	320,633 63	341,395 95	362,490 71	-----
September -----	297,913 99	315,107 96	325,968 87	-----
October -----	293,805 43	290,409 83	311,399 21	-----
November -----	274,582 48	302,734 11	307,933 29	-----
December -----	325,345 19	336,971 70	340,081 17	-----
	\$3,643,516 15	\$3,805,138 06	\$3,963,623 42	\$1,220,267 59

While the foregoing table shows a gradual increase in gross revenue from California state business amounting to approximately \$13,500.00 for each month over the corresponding month of the preceding year, the increases in operating expenses have been substantially greater.

The principal items of increased operating expenses in connection with petitioner's California business have been as follows:

#### 1. Wages.

From January 1, 1916, to August 31, 1917, petitioner's California pay roll increased an average of \$8,893.41 monthly, being an increase of 5.31 per cent. The principal increases were effective May 1, 1916. Subsequent to August 31, 1917, there have been additional increases to the California pay roll of over \$2,000.00 monthly.

In addition to the foregoing increases, petitioner paid to all employees who had been in its service one year on October 1, 1916, a bonus of one month's wages during the period from October 1, 1916, to October 1, 1917. Employees whose first year of service terminated subsequent to October 1, 1916, received prorated bonuses. The bonuses paid to petitioner's California employees for the year ending October 1, 1917, totalled \$101,536.51.

Petitioner established, effective June 1, 1916, a benefit and pension plan, covering pensions, sick, accident and funeral allowances, resulting in increased expenses in connection with California employees of approximately \$25,000.00 per year.

Decreased hours of labor and lack of experience of new employees who have taken the place of old employees who have enrolled themselves in the armed forces of the nation or resigned to accept more lucrative employment have caused further increases in operating expenses.

## 2. *Payments to railroads.*

The contract formerly in effect between petitioner and Southern Pacific Company expired on July 1, 1916. This contract provided for a payment by petitioner to Southern Pacific Company, in full compensation for the latter's services, of 40 per cent of the gross revenue received by petitioner from its business moving over the lines of the Southern Pacific Company. The proration, over the life of the contract, of certain initial payments, would result in some increase in the payment of 40 per cent. The new contract between petitioner and Southern Pacific Company, effective July 1, 1916, provides for the payment by petitioner to Southern Pacific Company of 55 per cent of the gross revenue from petitioner's business moving over the lines of Southern Pacific Company.

Petitioner's contract with The Atchison, Topeka and Santa Fe Railway Company, providing for a 55 per cent payment, expired on May 1, 1917. The new contract provides, in effect, that petitioner herein shall be recompensed in full by the Santa Fe for petitioner's costs and that if any revenue remains petitioner shall receive 6 per cent thereof. The record herein does not contain evidence from which we may conclude whether or not the new contract will be more or less advantageous to petitioner than its former contract.

The payments made by petitioner to a few small railroads in California have increased slightly over the payments heretofore in effect.

## 3. *Materials and supplies.*

The testimony shows that materials and supplies, as well as new equipment, are costing petitioner an average of 30 per cent in excess of former costs.

On the other hand, the taxes paid by petitioner and other express companies to the state of California were decreased by the legislature of 1917 (laws of 1917, p. 336) from 1.6 to .9 per cent of gross revenue from California business. This decreased payment became effective July 1, 1917.

Petitioner has not been as fortunate as many of the large steam railroads, whose increased operating expenses have been more than compensated by increased revenues, resulting in increased net earnings as well as gross earnings. Assuming, as we of course do, the correctness of our decision of August 1, 1913, in Case No. 122, wherein we established petitioner's present California state express rates, it is clear that the increases in petitioner's operating expenses on California state business over and above its revenues therefrom are such as to justify the increased rates herein requested.

The order herein will result in bringing California state class express rates in harmony with the class express rates established by the Inter-

state Commerce Commission on all interstate express business. Almost all the states have now taken similar action.

### ORDER.

Wells Fargo & Company having applied for authority to increase its rates on first- and second-class California state shipments weighing less than one hundred (100) pounds, public hearings having been held and the Railroad Commission being fully apprised in the premises,

*It is hereby ordered* that Wells Fargo & Company be and the same is hereby authorized to increase its charges on first-class shipments weighing less than one hundred (100) pounds, between all points in California, as follows:

Shipments, 5 pounds and under .....	5 cents per shipment
Shipments, over 5 pounds and not over 20 pounds .....	4 cents per shipment
Shipments, over 20 pounds and not over 40 pounds .....	3 cents per shipment
Shipments, over 40 pounds and not over 70 pounds .....	2 cents per shipment
Shipments, over 70 pounds and not over 90 pounds .....	1 cent per shipment

*It is further ordered* that Wells Fargo & Company be and the same is hereby authorized to increase its charges on second-class shipments weighing less than one hundred (100) pounds, between all points in California to the extent of seventy-five (75) per cent of the increases herein authorized for first-class shipments.

*It is further ordered* that the increased rates herein authorized shall become effective only when filed by Wells Fargo & Company with this commission, which filing, to be effective, shall be made within thirty (30) days from the date of this order.

Dated at San Francisco, California, this nineteenth day of November, 1917.

### DECISION No. 4861.

IN THE MATTER OF THE APPLICATION OF WALTER J. GREEN FOR  
CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY TO  
OPERATE STAGE OR TRUCK SERVICE BETWEEN REDWOOD AND  
MENLO PARK AND CAMP FREMONT.

Application No. 3327.

*Decided November 21, 1917.*

Applicant granted a certificate permitting the operation of automobile passenger service between Redwood City, Menlo Park and Camp Fremont, provided he secures all permits necessary from the public authorities of the territory through which he proposes to operate.

*Walter J. Green*, for Applicant.

*J. E. McCurdy*, for Peninsular Rapid Transit Company.

BY THE COMMISSION.

**OPINION.**

Walter J. Green applies for a certificate that public convenience and necessity require the operation by him of automobile passenger service between Redwood City and Camp Fremont at Menlo Park, a distance of about five miles, all in San Mateo County.

A public hearing in the matter was held by Examiner Westover at Redwood City on November 19.

Applicant proposes to operate in this service one 2-ton Republic truck with seating capacity of 22 passengers and one 1½-ton Republic truck with seating capacity of 20 passengers on a 30-minute schedule from 6.30 a.m., to 1 a.m. for a fare of 10 cents in each direction. He also has in reserve in San Francisco two other large busses of similar capacity.

The testimony shows that there are not enough vehicles to accommodate the demands for transportation of soldiers at Camp Fremont, wishing to travel between that point and Redwood City. Applicant presented a letter from the military authorities at the camp to the same effect. Facilities have been provided at the camp for several times the number of troops now stationed there. Applicant also presented a statement signed by a number of business men of Redwood City to the effect that better transportation facilities are needed between Redwood City and Camp Fremont to transport soldiers to and fro.

Applicant has not yet procured the necessary permits from the governing bodies of San Mateo County and the city of Redwood City, but expects to apply therefor at once.

**ORDER.**

Walter J. Green having filed application for a certificate that public convenience and necessity require the operation by him of an automobile passenger service between Redwood City, Menlo Park and Camp Fremont, and a public hearing having been held and the matter having been submitted and being now ready for decision, the Railroad Commission hereby declares that public convenience and necessity require the operation by Walter J. Green of an automobile passenger service between Redwood City, Menlo Park and Camp Fremont; provided, this declaration shall not become effective until said Walter J. Green has procured from the Railroad Commission a supplemental order herein reciting that he has filed certified copies of permits from the county of San Mateo and the city of Redwood City, as provided by section 3 of chapter 213, laws of 1917; and provided, further, that the rights and privileges herein granted shall not be assigned or transferred unless the written consent of the Railroad Commission to such assignment or transfer has first been secured.

Dated at San Francisco, California, this twenty-first day of November, 1917.

## DECISION No. 4862.

IN THE MATTER OF THE APPLICATION OF GREAT WESTERN POWER COMPANY FOR AN ORDER APPROVING CERTAIN RATES FOR ELECTRIC ENERGY TO BE FURNISHED THE CITY OF SANTA ROSA.

Application No. 2991.

*Decided November 24, 1917.*

BY THE COMMISSION.

**ORDER.**

Whereas Great Western Power Company requests that the commission approve certain rates to be charged the city of Santa Rosa for municipal street lighting, commercial lighting and power purposes; and

Whereas the original schedule of proposed rates filed with the application has been revised and reduced following an investigation and report by the commission's gas and electric department of the service and rates; and

Whereas applicant filed, on November 12, 1917, a revised agreement dated the seventh day of November, 1917, between Great Western Power Company and the city of Santa Rosa, setting forth therein the said revised rates; and

Whereas the rates set forth in said agreement of November 7, 1917, have been mutually agreed to by both parties, and, from information presented, appear reasonable,

*It is hereby ordered* that Great Western Power Company be and the same is hereby authorized to charge the city of Santa Rosa for service rendered from and after July 1, 1917, until the expiration of said agreement referred to above, or until such time as the commission may order a change in said rates, the rates set forth in that certain agreement for the supply of electric energy between the Great Western Power Company and the city of Santa Rosa dated November 7, 1917, provided Great Western Power Company shall, within twenty days of the date of this order, file with the commission two copies of said agreement.

Dated at San Francisco, California, this twenty-fourth day of November, 1917.

## DECISION No. 4863.

IN THE MATTER OF THE APPLICATION OF UNITED STAGES FOR  
CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY TO  
OPERATE MOTOR STAGE SERVICE BETWEEN SAN DIEGO AND  
CAMP KEARNY.

Application No. 3301.

*Decided November 24, 1917.*

Applicant granted a certificate permitting the operation of automobile passenger service between the city of San Diego and Camp Kearny, provided all necessary permits are secured from the public authorities of the territory through which it proposes to operate, and also provided that no machines shall be operated under this certificate except those owned by applicant or leased under contract approved by the commission.

*Warren E. Libby*, for Applicant.

BY THE COMMISSION.

## OPINION.

Applicant herein requests that the Railroad Commission make its order declaring that public convenience and necessity require the operation by applicant of automobile stage service as common carrier of passengers between San Diego and Camp Kearny.

Service proposed to be operated is as follows:

Hourly service from 4.00 a.m. to 8.00 a.m.

Half hour service from 8.00 a.m. to 6.00 p.m.

Hourly service up to 12 oclock midnight.

A statement giving full description of equipment proposed to be operated in this service will be filed with the Railroad Commission.

Fares proposed to be charged for the service, 50 cents one way and 75 cents round trip.

Terminus in San Diego is 1059 Third street, at Camp Kearny terminus to be designated by the United States military authorities.

Applicant has not secured permit from either the city or county of San Diego as required by section 3, of chapter 213, laws of 1917, but has made necessary application therefor. The order herein will not become effective until the Railroad Commission has made a supplemental order herein, reciting that such permits have been secured.

Public hearing was held by Examiner Encell at San Diego on November 9, 1917.

For full explanation of the situation and of the transportation conditions existing between San Diego and Camp Kearny and for the commission's views relative thereto, reference is hereby made to the opinion and order this day rendered in Application No. 3229 of A. G. Herring.

For the reasons set forth in the opinion in Application No. 3229, we are of the opinion that this application should be granted subject to the conditions contained in the following order:

**ORDER.**

United Stages having filed an application requesting that the Railroad Commission make its order declaring that public convenience and necessity require the operation by it of automobile stage service as common carrier of passengers between San Diego and Camp Kearny, a public hearing having been held, the matter having been submitted and being now ready for decision, the Railroad Commission of the state of California hereby declares that public convenience and necessity require the operation by United Stages of automobile stage service as common carrier of passengers between San Diego and Camp Kearny, provided that this declaration shall not become effective until said United Stages have secured from the Railroad Commission a supplemental order herein, reciting that applicant has filed certified copies of permits from the city and county of San Diego as required by section 3, chapter 213, laws of 1917, and provided further that the rights and privileges herein granted may not be assigned or transferred unless the written consent of the Railroad Commission to such assignment or transfer has first been secured; and

*It is hereby ordered* that no vehicle may be operated under this certificate unless such vehicle is owned by the applicant herein or is leased by such applicant under a contract or agreement on a basis satisfactory to the Railroad Commission.

Dated at San Francisco, California, this twenty-fourth day of November, 1917.

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DECISION No. 4864.

**IN THE MATTER OF THE APPLICATION OF PICKWICK STAGES FOR  
CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY TO  
OPERATE A STAGE SERVICE BETWEEN SAN DIEGO AND CAMP  
KEARNY.**

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Application No. 3312.

*Decided November 21, 1917.*

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Applicant granted a certificate permitting the operation of automobile passenger service between the city of San Diego and Camp Kearny, provided that all necessary permits are secured from the public authorities of the territory through



which applicant proposes to operate, and also provided that only machines owned or leased by applicant shall be operated under this certificate.

*Warren E. Libby*, for Applicant.

By THE COMMISSION.

#### OPINION.

Applicant herein requests that the Railroad Commission make its order declaring that public convenience and necessity require the operation by applicant of automobile stage service as common carrier of passengers between San Diego and Camp Kearny.

Service proposed to be operated is as follows:

From San Diego, hourly, 5.00 a.m. to 12.00 p.m.

From Camp Kearny, hourly, 5.50 a.m. to 12.50 p.m.

A statement giving full description of equipment proposed to be operated in this service will be filed with the Railroad Commission.

Fares proposed to be charged for the service 50 cents one way and 75 cents round trip.

Terminus in San Diego is 860 First street; at Camp Kearny terminus to be designated by the United States military authorities.

Applicant has not secured permits from either the city or county of San Diego as required by section 3, of chapter 213, laws of 1917, but has made necessary application therefor. The order herein will not become effective until the Railroad Commission has made a supplemental order herein, reciting that such permits have been secured.

Public hearing was held herein by Examiner Encell at San Diego on November 9, 1917.

For full explanation of the situation and of the transportation conditions existing between San Diego and Camp Kearny and for the commission's views relative thereto, reference is hereby made to the opinion and order this day rendered in Application No. 3229 of A. G. Herring.

For the reasons set forth in the opinion in Application No. 3229, we are of the opinion that this application should be granted subject to the conditions contained in the following order:

#### ORDER.

Pickwick Stages having filed an application requesting that the Railroad Commission make its order declaring that public convenience and necessity require the operation by it of automobile stage service as common carrier of passengers between San Diego and Camp Kearny, a public hearing having been held, the matter having been submitted and being now ready for decision, the Railroad Commission of the state of California hereby declares that public convenience and necessity require the operation by Pickwick Stages of automobile stage ser-

vice as common carrier of passengers between San Diego and Camp Kearny, provided that this declaration shall not become effective until said Pickwick Stages has secured from the Railroad Commission a supplemental order herein, reciting that applicant has filed certified copies of permits from the city and county of San Diego as required by section 3, chapter 213, laws of 1917, and provided further that the rights and privileges herein granted may not be assigned or transferred unless the written consent of the Railroad Commission to such assignment or transfer has first been secured; and,

*It is hereby ordered* that no vehicle may be operated under this certificate unless such vehicle is owned by the applicant herein or is leased by such applicant under a contract or agreement on a basis satisfactory to the Railroad Commission.

Dated at San Francisco, California, this twenty-fourth day of November, 1917.

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Decision No. 4865, grade crossing: not printed. See end of volume.

DECISION No. 4866.

IN THE MATTER OF THE APPLICATION OF THE SUNSET SURETY COMPANY FOR CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY TO OPERATE MOTOR STAGE SERVICE BETWEEN SAN DIEGO AND CAMP KEARNY.

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Application No. 3268.

*Decided November 21, 1917.*

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Applicant granted a certificate permitting the operation of automobile transportation service between the city of San Diego and Camp Kearny, provided that no machines shall be operated under such certificate unless owned by applicant or leased under contracts satisfactory to the commission.

*Jacob Weinberger*, for Applicant.

*Warren E. Libby*, for Pickwick Stages, Protestant.

*Robert G. Hill*, for United Stages, Protestant.

*L. D. Jennings*, for city of San Diego.

BY THE COMMISSION.

OPINION.

Applicant herein requests that the Railroad Commission make its order declaring that public convenience and necessity require the operation by it of automobile stage service as a common carrier of passengers and baggage between San Diego and Camp Kearny, same to be operated under name of "Liberty Bus Line."

The equipment proposed to be operated in this service to consist of ten (10) six-cylinder fifty-horsepower Studebaker auto busses, hav-

ing 150½-inch wheel base and seating capacity of sixteen (16) passengers each. Witness for applicant states it is able and intends to purchase such equipment immediately upon the granting of this application and will have five of such busses in operation twenty days after the granting of this application, and all of said equipment in operation within thirty-five (35) days after the granting of this application.

Applicant proposes to establish hourly time schedules leaving both terminals at 7 a.m. and every hour thereafter until 7.00 p.m.

Fares proposed to be charged for the service, 50 cents one way and 90 cents round trip.

Permits required by section 3, chapter 213, laws of 1917, have been secured by applicant from both the city and county of San Diego.

This application is one of six similar applications which by consent and agreement of all interested were consolidated for hearing before Examiner Encell at San Diego, it being stipulated that the evidence in one was to be considered as evidence in the others.

For a full explanation of the situation and of the transportation conditions existing between San Diego and Camp Kearny, and for the commission's views relative thereto, reference is hereby made to the opinion and order this day rendered in Application No. 3229 of A. G. Herring.

For reasons set forth in the opinion in Application No. 3229, above referred to, we are of the opinion that this application should be granted subject to the conditions contained in the following order:

#### ORDER.

The Sunset Surety Company having filed an application requesting that the Railroad Commission make its order declaring that public convenience and necessity require the operation by it of automobile stage service as common carrier of passengers between San Diego and Camp Kearny, a public hearing having been held, the matter having been submitted and being now ready for decision, the Railroad Commission of the state of California hereby declares that public convenience and necessity require the operation by the Sunset Surety Company of automobile stage service as common carrier of passengers between San Diego and Camp Kearny, provided that the rights and privileges herein granted shall not be assigned or transferred unless the written consent of the Railroad Commission to such assignment or transfer has first been secured; and

*It is hereby ordered* that no vehicle may be operated under this certificate unless such vehicle is owned by the applicant herein or is leased by such applicant under a contract or agreement on a basis satisfactory to the Railroad Commission.

Dated at San Francisco, California, this twenty-fourth day of November, 1917.

## DECISION No. 4867.

IN THE MATTER OF THE APPLICATION OF A. R. G. BUS COMPANY  
FOR CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY  
TO OPERATE MOTOR STAGE SERVICE BETWEEN SAN DIEGO AND  
CAMP KEARNY.

Application No. 3270.

*Decided November 21, 1917.*

Applicant granted a certificate permitting the operation of automobile passenger service between the city of San Diego and Camp Kearny, provided all necessary permits are secured from the public authorities of the territory through which it proposes to operate, and also provided that no machines shall be operated thereunder unless owned by applicant or leased under contracts satisfactory to the commission.

*Leonard Wilson*, for Applicant.

*Warren E. Libby*, for Pickwick Stages, Protestant.

*Robert G. Hill*, for United Stages, Protestant.

*L. D. Jennings*, for city of San Diego.

BY THE COMMISSION.

## OPINION.

Applicant herein requests that the Railroad Commission make its order declaring that public convenience and necessity require the operation by applicant of automobile stages or trucks as common carrier of passengers between San Diego and Camp Kearny.

Equipment proposed to be operated in this service is as follows:

Make	Seating capacity	State license number
White truck -----	11	314116
White truck -----	11	283736
White truck -----	11	314986

Description of additional equipment to be filed later.

Applicant proposes to establish following time schedule:

North bound		South bound	
Leave San Diego-----	7.00 a.m.	Leave Camp Kearny-----	8.00 a.m.
	8.00 a.m.		10.00 a.m.
	11.00 a.m.		12.00 m.
	1.00 p.m.		2.00 p.m.
	3.00 p.m.		4.00 p.m.
	5.00 p.m.		6.00 p.m.
	7.00 p.m.		8.00 p.m.

and desires permission to operate additional cars if necessary to handle business offered.

Fares proposed to be charged for the service—50 cents one way and 75 cents round trip.

This application is one of six similar applications which, by consent and agreement of all interested, were consolidated for hearing before Examiner Encell at San Diego, it being stipulated that the evidence given in one was to be considered as evidence in the others.

For a full explanation of the situation and of the transportation conditions existing between San Diego and Camp Kearny and for the commission's views relative thereto, reference is hereby made to the opinion and order this day rendered in Application No. 3229 of A. G. Herring.

Applicant has not secured permits from either the city or county of San Diego as required by section 3, chapter 213, laws of 1917, but intends to make application therefor. The order herein will not become effective until the Railroad Commission has issued a supplemental order herein, reciting that such permits have been secured.

For reasons set forth in the opinion in Application No. 3229, above referred to, we are of the opinion that this application should be granted, subject to the conditions contained in the following order:

#### ORDER.

A. R. G. Bus Company having filed an application requesting that the Railroad Commission make its order declaring that public convenience and necessity require the operation by it of automobile stage service as common carrier of passengers between San Diego and Camp Kearny, a public hearing having been held, the matter having been submitted and being now ready for decision, the Railroad Commission of the State of California hereby declares that public convenience and necessity require the operation by A. R. G. Bus Company of automobile stage service as common carrier of passengers between San Diego and Camp Kearny, provided that this declaration shall not become effective until said A. R. G. Bus Company shall have secured from the Railroad Commission a supplemental order herein, reciting that applicant has filed certified copies of permits from the city and county of San Diego as required by section 3, chapter 213, laws of 1917, and provided further that the rights and privileges herein granted shall not be assigned or transferred unless the written consent of the Railroad Commission to such assignment or transfer has first been secured; and

*It is hereby ordered* that no vehicle may be operated under this certificate unless such vehicle is owned by the applicant herein or is leased by such applicant under a contract or agreement on a basis satisfactory to the Railroad Commission.

Dated at San Francisco, California, this twenty-fourth day of November, 1917.

## DECISION No. 4868.

IN THE MATTER OF THE APPLICATION OF SAN DIEGO SIGHT-SEEING  
COMPANY FOR CERTIFICATE OF PUBLIC CONVENIENCE AND  
NECESSITY TO OPERATE AUTOMOBILE STAGE SERVICE BETWEEN  
SAN DIEGO AND CAMP KEARNY.

Application No. 3282.

*Decided November 24, 1917.*

Applicant granted a certificate permitting the operation of automobile passenger service between the city of San Diego and Camp Kearny, provided all necessary permits are secured from the public authorities of the territory through which it proposes to operate, and also provided that no machines shall be operated thereunder unless owned by applicant or leased under contracts satisfactory to the commission.

*B. K. Gillespie*, for Applicant.

*Warren E. Libby*, for Pickwick Stages, Protestant.

*Robert G. Hill*, for United Stages, Protestant.

*L. D. Jennings*, for city of San Diego.

BY THE COMMISSION.

## OPINION.

Applicant herein requests that the Railroad Commission make its order declaring that public convenience and necessity require the operation by applicant of automobile stage service as a common carrier of passengers between San Diego and Camp Kearny.

Following is description of equipment proposed to be used in this service:

Number	Make	Horsepower	Seating capacity	State license number
5	Velie .....	45	20 each	119434 119442 119431 119440 119441
2	Cole .....	45	7 each	119545 275455
1	Abbott-Detroit .....	40	7	119546
1	National .....	50	7	119549
1	Studebaker .....	35	5	119542

Reserve equipment for which state license will be applied for as business warrants:

Number	Make	Horsepower	Seating capacity
4	Velie .....	45	20
2	Mack .....	60	30
1	Mack .....	60	28
1	Packard .....	18	20

Time schedule proposed to be operated by applicant is as follows:

Leave San Diego-----	11.00 a.m.	Leave Camp Kearny-----	10.00 a.m.
	4.00 p.m.		1.00 p.m.
	10.30 p.m.		5.30 p.m.
	11.30 p.m.		6.00 p.m.
	12.30 a.m.		
	4.30 a.m.		

Applicant proposes to charge 50 cents one way fare and 75 cents round trip.

This application is one of six similar applications which by consent and agreement of all interested parties were consolidated for hearing before Examiner Encell at San Diego; it being stipulated that the evidence given in one was to be considered as evidence in the others.

Applicant has not secured permits from either the city or county of San Diego as required by section 3, chapter 213, laws of 1917, but intends to make application therefor. The order herein will not become effective until the Railroad Commission has issued a supplemental order herein reciting that such permits have been secured.

For full explanation of the situation and the transportation conditions existing between San Diego and Camp Kearny and for the commission's views relative thereto, reference is hereby made to the opinion and order this day rendered in Application No. 3229, of A. G. Herring.

For reasons set forth in the opinion in Application No. 3229, above referred to, we are of the opinion that this application should be granted subject to the conditions contained in the following order:

#### ORDER.

San Diego Sight-Seeing Company having filed an application requesting that the Railroad Commission make its order declaring that public convenience and necessity require the operation by it of automobile stage service as common carrier of passengers between San Diego and Camp Kearny, a public hearing having been held, the matter having been submitted and being now ready for decision, the Railroad Commission of the state of California hereby declares that public convenience and necessity require the operation by San Diego Sight-Seeing Company of automobile stage service as common carrier of passengers between San Diego and Camp Kearny, provided that this declaration shall not become effective until said San Diego Sight-Seeing Company has secured from the Railroad Commission a supplemental order herein, reciting that applicant has filed certified copies of permits from the city and county of San Diego as required by section 3, chapter 213, laws of 1917, and provided, further, that the rights and privileges herein granted may not be assigned or trans-

ferred unless the written consent of the Railroad Commission to such assignment or transfer has first been secured; and

*It is hereby ordered* that no vehicle may be operated under this certificate unless such vehicle is owned by the applicant herein or is leased by such applicant under a contract or agreement on a basis satisfactory to the Railroad Commission.

Dated at San Francisco, California, this twenty-fourth day of November, 1917.

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DECISION No. 4869.

IN THE MATTER OF THE APPLICATION OF THE MIDWAY GAS COMPANY FOR AN ORDER AUTHORIZING THE SALE BY IT TO SOUTHERN PACIFIC LAND COMPANY OR THEIR NOMINEE OF A CERTAIN COMPRESSOR STATION.

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Application No. 3318.

*Decided November 21, 1917.*

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Midway Gas Company authorized to sell, for the sum of \$44,781.69, a certain gas compressor station in the Midway fields under a contract whereby the purchaser shall operate said compressor for the supply of natural gas for the Midway company exclusively.

By THE COMMISSION.

**ORDER.**

Whereas Midway Gas Company has applied to this commission for authority to sell to Southern Pacific Land Company or its nominee a certain gas compressor station together with certain appurtenances and adjuncts located on the east side of section 35, township 31 south, range 23 east, M. D. B. and M., in Kern County, for the sum of \$44,781.69, which it represents as the actual cost to it of the compressor station; and

Whereas the above referred to compressor station is at present used by Midway Gas Company in the collection of natural gas for transmission to Los Angeles and is therefore a part of its operative property; and

Whereas the proposed transfer and sale as set forth in a certain instrument of transfer between Midway Gas Company and Southern Pacific Company filed with the commission is in accordance with the conditions set forth in certain proposed supplemental contracts between Midway Gas Company and Southern Pacific Land Company, Southern Pacific Company and Associated Oil Company and between Midway Gas Company and Honolulu Consolidated Oil Company, copies of



which proposed contracts have been filed with the commission, and in which it is provided that

(1) Midway Gas Company transfer to Southern Pacific Land Company, Southern Pacific Company and Associated Oil Company or their nominees, the compressor station for the sum of \$44,781.69 and all the rights previously held by Midway Gas Company to gasoline, distillates, condensates, etc., which may be extracted by the aforementioned companies in connection with the operation of said plant;

(2) That the purchasing companies agree to operate said compressor station for the supply of natural gas to the Midway Gas Company exclusively and to construct another similar plant if required;

(3) That gas is to be sold and purchased at the same rate per 1,000 cubic feet as provided in the original contracts; and

Whereas it appears that the transfer will be beneficial to the utility operations of Midway Gas Company,

*It is hereby ordered* that Midway Gas Company be and the same is hereby authorized to sell to the Southern Pacific Land Company or its nominee, "that certain compressor station heretofore constructed and now maintained by said Midway Gas Company on a certain tract of land measuring three hundred and fifty (350) feet north to south and two hundred (200) feet from east to west, located in the easterly half of section thirty-five (35), township thirty-one (31) south, range twenty-three (23) east, M. D. B. and M., in the county of Kern, state of California, and the easterly boundary of said tract being located parallel with and thirty-five (35) feet westerly from the easterly boundary of said section thirty-five (35), and the southerly boundary of said tract being located parallel with and fourteen hundred and thirty-five (1,435) feet southerly from the northerly boundary of said section; together with all machinery, apparatus and other materials now located on said tract and constituting a part of or appertaining to said compressor station, also all cottages and other structures now located within said section and in the vicinity of said compressor station and used for residence purposes or as living quarters by any of the agents or employees of said Midway Gas Company engaged in or about said compressor station; together with all adjuncts or appurtenances of said cottages and structures." for the sum of \$44,781.69, in accordance with that certain instrument of transfer filed with the commission by Midway Gas Company under date of November 21, 1917, and in accordance with the provisions of the proposed contracts between Midway Gas Company and Southern Pacific Land Company, Southern Pacific Company and Associated Oil Company, copies of which were filed with the commission under date of October 29, 1917, in the above-entitled matter, and the contract between Midway Gas Company and Honolulu Consolidated Oil Company filed under date of October 29, 1917.

This order is made upon the following conditions:

(1) The authority herein contained shall extend only to such property as shall have been transferred within sixty days from the date hereof.

(2) Within ten days after any of said three contracts are entered into and within ten days after any such instrument of transfer has been executed, the Midway Gas Company shall report in writing to the commission the fact of such execution of contracts or instrument and shall file with the Railroad Commission copies of all such contracts and instruments.

Dated at San Francisco, California, this twenty-fourth day of November, 1917.

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DECISION No. 4870.

IN THE MATTER OF THE APPLICATION OF W. A. SHAULES, A. W. McPHERSON, CHARLES H. WALKER, ROBERT DICK AND THE CITY OF SAN DIEGO, FOR PERMISSION TO CONVEY TO SAID CITY CERTAIN WATER DISTRIBUTING SYSTEMS LOCATED IN THE CITY OF SAN DIEGO.

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Application No. 3334.

*Decided November 24, 1917.*

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BY THE COMMISSION.

**ORDER.**

W. A. Shaules, A. W. McPherson, Charles H. Walker and Robert Dick having applied for authority to transfer to the city of San Diego certain public utility property within said city, which property is described in petitioners' joint application as Exhibits "A," "C," "E" and "G" as follows:

**PETITIONERS' JOINT EXHIBIT A.**

*Water system belonging to W. A. Shaules.*

1,252 feet 3-inch dipped pipe.	1 1½-inch union.
2,065 feet 2-inch dipped pipe.	1 3-inch union.
5,305 feet 1½-inch dipped pipe.	1 pair 3-inch lock nuts.
100 feet 1-inch dipped pipe.	1 pair 1½-inch lock nuts.
One redwood tank with float.	1 1½x12-inch nipple.
10 ½ meters.	7 3-inch cross.
4 3-inch L's.	1 2x3-inch bushing.
2 2x24-inch nipples.	1 3x1½-inch bushing.
3 2-inch service cocks.	1 1½x30-inch nipple.
2 2-inch L's.	2 1½-inch L's.
3 2x24-inch nipples.	1 1½x20-inch nipples.
1 2-inch check valve.	1 1½x12-inch nipples.
1 2-inch nipple.	1 pair lock nuts 1½-inch.
2 2-inch unions.	1 3x6-inch nipple.
3 set 2-inch lock nuts.	6 3-inch T's.
4 1½-inch gate valves.	7 2-inch cross.
1 2-inch gate valve.	9 1½-inch cross.
3 3-inch gate valves.	13 1½-inch T's.
1 1½-inch check valve.	5 1½-inch Y's.
1 3-inch check valve.	Labor on system.

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## PETITIONERS' JOINT EXHIBIT C.

*Water system belonging to A. W. McPherson.*

740 feet of 2-inch pipe on Lisbon street, between Imperial avenue and Pigeon street; 468 feet of 1-inch pipe on Pigeon street north of Lisbon street; 248 feet of 1-inch pipe on Pigeon street south of Lisbon street.

## PETITIONERS' JOINT EXHIBIT E.

*Water system belonging to Charles H. Walker.*

325 feet of 2-inch mains on F street, between Fortieth and Forty-first streets; 616 feet of 2-inch main in the alley in block 3, Walker's Addition, lying between F street and Market street, and Fortieth street and Raven street; 575 feet of 2-inch main in block 4, Walker's Addition, lying between F street and Market street, and Raven street and Forty-first street.

## PETITIONERS' JOINT EXHIBIT G.

*Water system belonging to Robert Dick.*

Approximately 700 feet of 2-inch mains commencing at the intersection of Iona drive and Kenwood street and thence east on Kenwood street and Kenwood street extended, to Sixty-first street; 500 feet of  $\frac{3}{4}$ -inch pipe from this point south on Sixty-first street to Akins avenue; 500 feet of 2-inch main on Sixtieth street between Akins avenue and Kenwood street; 400 feet of 2-inch main and 100 feet of  $\frac{3}{4}$ -inch main on Iona drive south of Kenwood street; 100 feet of  $\frac{3}{4}$ -inch pipe on Akins avenue running east from the intersection of this street with Sixtieth street, and 100 feet of  $\frac{3}{4}$ -inch main running west on Akins avenue from the intersection of this street with Sixtieth street.

And the city of San Diego having joined in this application, and it appearing to the commission that this is not a case in which a public hearing is necessary, and that the application should be granted,

*It is hereby ordered* that this application be and the same is hereby granted; provided, that the authority herein granted shall apply only to such property as is transferred on or before December 31, 1917; and provided further, that within ten (10) days after any conveyance of property is executed in accordance with the authority herein granted, a copy of the conveyance shall be filed with the Railroad Commission.

Dated at San Francisco, California, this twenty-fourth day of November, 1917.

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 DECISION No. 4871.

IN THE MATTER OF THE APPLICATION OF RALPH E. WILLIAMS FOR  
 CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY TO  
 OPERATE A STAGE OR TRUCK SERVICE BETWEEN BANNING AND  
 RIVERSIDE.

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 Application No. 3335.

*Decided November 24, 1917.*

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BY THE COMMISSION.

## ORDER.

Ralph E. Williams having applied for a certificate declaring that public convenience and necessity require the operation by him of an

automobile passenger, freight and express transportation service between Banning and Riverside and intermediate points, and the commission being duly advised and believing that this is not a case in which a public hearing is necessary, and that the application should be granted, it is hereby declared that public convenience and necessity require the operation by Ralph E. Williams of an automobile passenger, freight and express transportation service between Banning and Riverside and intermediate points; provided, that this declaration shall not become effective until said Williams has procured from the Railroad Commission a supplemental order herein reciting that said Williams has filed herein certified copies of permits from the county of Riverside, and the cities of Banning and Riverside, and all other incorporated cities through which applicant proposes to operate, as provided by section 3 of chapter 213, laws of 1917; and provided, further, that the rights and privileges herein granted shall not be assigned or transferred unless the written consent of the Railroad Commission to such assignment or transfer has first been secured.

Dated at San Francisco, California, this twenty-fourth day of November, 1917.

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Decision No. 4872, grade crossing; not printed. See end of volume.

DECISION No. 4873.

IN THE MATTER OF THE APPLICATION OF WHITE BUS LINE FOR  
LEAVE TO OPERATE BRANCH LINE BETWEEN BREA AND  
OLINDA.

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Application No. 3154.

*Decided November 24, 1917.*

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BY THE COMMISSION.

**FIRST SUPPLEMENTAL ORDER.**

In accordance with the order heretofore made in this proceeding on October 3, 1917, White Bus Line has filed with the Railroad Commission a certified copy of a permit from the board of supervisors of Orange County, as required by section 3 of chapter 213, laws of 1917.

Dated at San Francisco, California, this twenty-fourth day of November, 1917.

## DECISION No. 4874.

IN THE MATTER OF THE APPLICATION OF A. G. HERRING FOR  
CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY TO  
OPERATE AUTOMOBILE STAGES BETWEEN SAN DIEGO AND  
CAMP KEARNY.

Application No. 3229.

*Decided November 24, 1917.*

When automobile carriers apply for a certificate permitting them to operate passenger carrying busses from a military reservation to surrounding cities and permission to enter such reservation must be obtained from the officers in charge thereof, it is deemed advisable to grant certificates applied for leaving it to the officers in charge to determine the number of machines necessary to adequately transport their men.

It is illegal for individuals owning machines to operate them under permits held by established companies, paying such established companies a flat or percentage rate per day of operation; such individuals are required to obtain and operate under their own permits and certificates.

Applicant granted a certificate permitting the operation of automobile transportation service between the city of San Diego and Camp Kearny, provided that all necessary permits are secured from the public authorities of the territory through which he proposes to operate, and also provided that no machines shall be operated under such certificate except those owned by applicant or leased under contracts satisfactory to the commission.

*Leonard Wilson*, for Applicant.

*Warren E. Libby*, for Pickwick Stages, Protestant.

*Robert G. Hill*, for United Stages, Protestant.

*L. D. Jennings*, for city of San Diego.

BY THE COMMISSION.

## OPINION.

Applicant herein requests that the Railroad Commission make its order declaring that public convenience and necessity require the operation by applicant of automobile stage service as common carrier of passengers between San Diego and Camp Kearny, to be operated under the name of "Linda Vista Stage Line."

It is proposed to operate daily a minimum of four auto stages in this service: first car to leave San Diego at 7.00 a.m. and Camp Kearny at 8.00 a.m. and a car from each terminus hourly thereafter; last car to leave San Diego at 7.00 p.m. and Camp Kearny at 8.00 p.m. Following is description of the four cars:

	H. P.	Seating capacity	State license number
Studebaker -----	30	7	218352
Chandler -----	28	7	15669
Chalmers -----	28	7	27131
Chalmers -----	28	7	27132

Additional cars to be used in the service as traffic requires.

Applicant proposes to charge for the service a one-way fare of 50 cents and 90 cents for round trip.

The terminus at San Diego is 1032 Fourth street and at Camp Kearny is to be designated by United States military authorities.

Permits have not been secured from either the city or county of San Diego as required by section 3 of chapter 213, laws of 1917, but necessary application has been made therefor. The order herein will not become effective until the Railroad Commission has made a supplemental order herein reciting that such permits have been secured.

Public hearings were held at San Diego by Examiner Encell. Protest was entered by the United Stages and Pickwick Stages against the granting of the certificate prayed for, protestants claiming that their respective companies were equipped to furnish adequate service to properly accommodate all traffic offered and that Camp Kearny is an intermediate point on their established route to Escondido via Miramar, which service was in effect prior to May 1, 1917, thereby giving them a vested right.

It was shown at the hearing that the route traversed by protestants to and from Escondido via Miramar was not via the same route as is traversed by them to and from Camp Kearny. Therefore protestants were operating to Camp Kearny without proper permits and were requested to file formal applications for necessary permits from the city and county of San Diego and for certificate of public convenience and necessity from the Railroad Commission.

This application is one of six similar applications which by consent and agreement of all interested were consolidated for hearing; it being stipulated that the evidence given in this proceeding was to be considered as evidence in the others.

Witness for applicant testified that, at that time there was approximately 12,000 troops located at Camp Kearny and that within a very short period of time the number would be increased to 40,000 or 45,000, that adequate transportation facilities were not being furnished by the stage lines then operating between the points in question, and that this condition was justification for granting the certificate requested.

The problem to be dealt with primarily in this proceeding is that of providing adequate service for the soldiers now stationed at Camp Kearny who desire on the days on which they are at liberty to visit the city of San Diego and neighboring cities. They are granted leave of absence from the military reservation on Wednesdays, Saturdays and Sundays. On these days the public generally is allowed to visit the Camp. At other times civilian employees in numbers not exceeding two hundred, and this number is gradually diminishing to naught, require

transportation. Aside from transportation by automobile, The Atchison, Topeka and Santa Fe Railroad has built its tracks into the Camp and maintains a schedule which is more than ample to provide accommodations for this civilian travel, but which transportation is not as satisfactory on account of requiring twenty to thirty minutes more to make the trip than by automobile, and is inadequate on "liberty days."

Practically speaking, it may be said that the only public convenience and necessity which is involved herein is that which deals with the transportation of United States Army soldiers from within the boundaries of the U. S. military reservation to neighboring cities and return. Inasmuch as the entry or leaving of that military reservation by any person or common carrier is a matter which lies solely within the jurisdiction of, and is subject to, regulation by U. S. Army officers, and for the further reason, as hereinabove pointed out, because the only portion of the public which will be served by the applicants herein are men under their jurisdiction, the wishes of those in command at Camp Kearny should govern. It would be futile to grant certificates of public convenience and necessity for carriers to operate from within Camp Kearny to other points, since the power to enter the reservation lies solely within the federal jurisdiction.

Colonel Wilbur, the officer in charge of transportation at the Camp, testified that it would be practically impossible to furnish a sufficient number of automobiles to transport the men of the Camp during the rush hours on their so-called "liberty" days, and on the other hand, stated that he felt that as a matter of safety the number of automobiles should be limited. The number of automobiles necessary to handle this traffic will vary as the number of men in the Camp vary.

We believe that the army officers, who have it within their power to restrict any and all vehicles from operation within the reservation, will exercise that power so as to provide the best and safest equipment to transport the soldiers. In view of the statement of Colonel Wilbur that sufficient number of automobiles can not be had at the time when they are needed, it is our opinion that a certificate of public convenience and necessity should be granted to the applicant herein in order that such equipment as may be available and desired by the military authorities may be placed at the disposal of the soldiers at Camp Kearny, for their use, leaving the selection of numbers and types to the officers in charge at Camp Kearny.

Testimony at the hearings developed the fact that a number of the stage companies such as the "Union Auto Stages," "United Stages," "Pickwick Stages," and others, own but very few of the automobiles operating under their respective names and under the tariffs as filed with the Railroad Commission by said companies. The greater majority

of the cars operating under these names are owned by the individual drivers, or parties who hire drivers. These cars are either leased to the stage companies by the trip, day, or month, or, as was shown in a great number of cases, are operated on a percentage basis, whereby the owners of the cars receive a certain per cent of the amount collected for the passengers handled by their cars. Others simply pay the stage company a specified amount per day, or otherwise, for the privilege of using the terminal facilities of the stage company selling the tickets.

Cars operated by and under the control of the owners, as indicated above, and in cases where a given amount is paid the stage company by the owner of a car for use of the stage line's terminal facilities are operating in violation of the provisions of section 3, chapter 213, laws of 1917, and such parties whose operations commenced since May 1, 1917, must at once secure permits from the local authorities, and a certificate of public convenience and necessity from this commission.

No objection is made by the commission to the practices of stage companies leasing such equipment as may be necessary for the proper conduct of their business, if such a lease promotes permanent and adequate service and guarantees the safety of the public. But the manner in which cars have been operated, as hereinabove stated, does not promote the standard of service which must be maintained by carriers. Neither safety nor transportation of the public in dependable fashion can be assured under the present system.

In view of the evidence submitted we are of the opinion that public convenience and necessity require the operation by A. G. Herring of automobile stage service as common carrier of passengers between San Diego and Camp Kearny, and that this application should be granted, subject to the conditions contained in the following order:

#### ORDER.

A. G. Herring having filed an application requesting that the Railroad Commission make its order declaring that public convenience and necessity require the operation by him of an automobile stage service as common carrier of passengers between San Diego and Camp Kearny, a public hearing having been held, the matter having been submitted and being now ready for decision, the Railroad Commission of the State of California hereby declares that public convenience and necessity require the operation by A. G. Herring of automobile stage service as common carrier of passengers between San Diego and Camp Kearny, provided that this declaration shall not become effective until said A. G. Herring has secured from the Railroad Commission a supplemental order herein, reciting that he has filed certified copies of permits from the city and county of San Diego, as required by section 3, chap-



ter 213, laws of 1917, and provided further that the rights and privileges herein granted shall not be assigned or transferred unless the written consent of the Railroad Commission to such assignment or transfer has first been secured; and

*It is hereby ordered* that no vehicle may be operated under this certificate unless such vehicle is owned by the applicant herein, or is leased by applicant under a contract or agreement on a basis satisfactory to the Railroad Commission.

Dated at San Francisco, California, this twenty-fourth day of November, 1917.

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DECISION No. 4875.

VALLEY ICE COMPANY

*vs.*

COUNTY OF FRESNO, AND SOUTHERN PACIFIC COMPANY.

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Case No. 1166.

*Decided November 24, 1917.*

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When complaint is made to the commission with reference to an existing grade crossing and it is proven that such crossing is extremely dangerous and a menace to traffic, an order will be entered requiring the closing thereof. Defendants directed to close East street and to submit within thirty days plans for the improvement of Church street crossing and to reach an agreement with reference to the division of expense thereof.

*Short & Sutherland*, for Complainant.

*George D. Squires*, for Southern Pacific Company.

*R. G. Retallick*, for Fresno County Supervisors.

*L. L. Corey*, for certain property owners.

*GORDON*, Commissioner.

**OPINION.**

In this complaint the Valley Ice Company alleges that the crossing of East avenue with the tracks of the Southern Pacific Company is exceedingly dangerous to pedestrians and drivers of vehicles because of the fact that the view is more or less obscured by the plant of the complainant; that the danger is much increased because of a siding across the street on which cars are iced, and that on this and adjacent tracks considerable switching takes place. Complainant asks the commission to order defendants to close the crossing.

Fresno County takes the position that it is willing to have this crossing closed provided it is put to no expense, and the Southern Pacific Company agrees with the complainant that the crossing is exceedingly dangerous and should be done away with.

Prior to the filing of this complaint the commission's engineering department, in making its state-wide inspection of grade crossings, examined the crossing of East avenue and reported to the commission as follows:

"East avenue is considered one of the most dangerous crossings inspected to date. The view at this crossing is obstructed by the Valley company's plant and during the summer months the view is obstructed by cars on the siding so the driver of a vehicle has to be practically on the track before he can obtain a view of approaching trains. This crossing is protected by a wig-wag, but these are not infallible. Should the circuit become broken the signal would be inoperative and drivers would have no warning until practically on the track. This crossing can be closed without inconveniencing the public to any great extent if the Church avenue crossing be put in shape to handle the traffic. If the Church avenue crossing is used by this traffic the present cattle guards and wing fences could be changed to give a good turn out of the state highway into Church avenue and the wig-wag now at East avenue could be moved to the new location."

This extract from the report sets forth the condition that undoubtedly exists, and also describes the method that the complainant and defendants have agreed should be used to take care of such traffic as now crosses the tracks on East avenue.

There were several protestants against closing this crossing but they do not live immediately adjacent to it and their protests seemed to be directed rather against the method which might be followed in improving Church avenue than against closing East avenue.

The plant of the Valley Ice Company is on the east side of East avenue, but it desires to make an extension and for this purpose has purchased the property on the west side of the street which lies between East avenue, Church avenue and the railroad track. When East avenue is closed the ice company can use the land occupied by the street to good advantage, and it has offered to deed one-half the lot to the county in exchange for it. When this is done the county will be able to prevent the construction of obstructions to the view along the track to the east of Church avenue; and with that street improved by widening it to the east as proposed, and by the installation of an automatic flagman protective device, installed in the center of the street, the crossing situation in the vicinity will be greatly improved.

I recommend the following form of order:

#### ORDER.

Valley Ice Company having complained to the commission regarding the danger of the crossing of East avenue over the tracks of the Southern Pacific Company, and a public hearing having been held;

and the commission having found as a fact that this crossing is dangerous and should be closed,

*It is hereby ordered* that the public highway crossing of East avenue with the tracks of the Southern Pacific Company be and the same hereby is ordered closed.

*It is hereby further ordered* that thirty (30) days from the date of this order defendants shall present to the commission for its approval, plans for the improvement of the Church avenue crossing, together with an agreement regarding the expense of the same; and if no such agreement can be reached the expense will be divided by a further order of the commission.

*It is hereby further ordered* that Southern Pacific Company shall install and maintain in the center of Church avenue an automatic flagman of a type approved by the commission, after the Church avenue crossing shall have been improved.

*It is hereby further ordered* that the commission reserves the right to make such further orders relative to these crossings as to it may seem right and proper.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the state of California.

Dated at San Francisco, California, this twenty-fourth day of November, 1917.

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DECISION No. 4876.

IN THE MATTER OF THE APPLICATION OF THE COUNTY OF GLENN  
BY AND THROUGH ITS BOARD OF SUPERVISORS, FOR PER-  
MISSION TO CONSTRUCT PUBLIC HIGHWAY CROSSINGS OVER  
THE SOUTHERN PACIFIC RAILWAY.

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Application No. 3281.

*Decided November 24, 1917.*

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Applicant granted permission to construct three certain road crossings at grade across tracks of Southern Pacific Company, the expense thereof to be borne by the county. Authorization conditioned upon the closing of two existing crossings.

*Per F. Geis*, for Applicant.

*George D. Squires*, for Southern Pacific Company.

GORDON, *Commissioner*.

**OPINION.**

In this application Glenn County asks the commission to authorize the construction of three grade crossings over the tracks of the Southern Pacific Company.

*First*, a north and south crossing over the Hamilton branch of the Southern Pacific Company near Wyo, in section 18, township 22 north, range 2 west, M. D. B. and M.

*Second*, an east and west crossing of the main line of the Southern Pacific Company in section 3, township 22 north, range 3 west, M. D. B. and M.

*Third*, a north and south crossing of Washington street over the Fruto branch of the Southern Pacific Company in section 4, township 19 north, range 3 west, M. D. B. and M.

The first of these crossings is located between crossings now open and one-half mile away in each direction, which do not, it is claimed, adequately serve the public. It is located in a section bounded on the north by the railroad tracks and on the south by Stony Creek, and, as there is no bridge over Stony Creek, the only means of access is by crossing over the tracks. The existing crossings are not satisfactory because the one to the east of the proposed crossing is over low ground impassable in the winter, and the one to the west is not in the line of travel. Applicant believes that this crossing to the west can be closed provided the proposed crossing is opened, and as such a proceeding would not add to the existing number of crossings or to the general crossing hazard in the vicinity I believe the commission should permit this proposed crossing to be opened under those terms.

The second proposed crossing is in a new irrigation district which is being rapidly settled and is needed principally to permit school children and the rural delivery postman to cross the tracks without making the long detour necessary to use the existing crossings either north or south. It will unquestionably add greatly to the convenience of the ranchers in this district and it seems entirely reasonable that it should be opened, since without it much of the traffic going south is obliged to cross two railroad tracks, one on the main line at Wyo and another on the Hamilton branch at the same point.

The third crossing is over the Fruto branch of the Southern Pacific Company and is located between Butte street and Pacific avenue, both of which have open crossings. It will permit Washington street in a subdivision north of the track to be connected with the same street in the town of Willows, south of the track, and will form the most convenient route to and from the town. I do not believe, however, that the need for an additional crossing at this time is sufficient to offset the increased hazard. Pacific avenue to the west is very little used and if that crossing can be closed Washington street crossing would take its place and it would be entirely reasonable to permit it to be opened.

I recommend the following form of order :

**ORDER.**

Glenn County, California, having applied to the commission for permission to open three crossings over the tracks of the Southern Pacific Company, described in the foregoing opinion, and a public hearing having been held, and it appearing to the commission that this application should be granted subject to certain conditions,

*It is hereby ordered* that permission be and the same hereby is granted Glenn County, California, to construct the public highways described in the preceding opinion at grade over the tracks of the Southern Pacific Company at the points and in the manner shown by the maps attached to the application, subject to the following conditions, and not otherwise :

(1) The entire expense of constructing the crossings, together with the cost of their maintenance thereafter, shall be borne by applicant, except for the maintenance of those portions between the rails and two (2) feet outside thereof, the cost of which shall be borne by Southern Pacific Company.

(2) Said crossings shall be constructed of a width of not less than thirty (30) feet, with grades of approach not exceeding four (4) per cent; shall be protected by suitable crossing signs and shall in every way be made safe for the passage thereover of vehicles and other road traffic.

(3) The permission to construct the crossing referred to in the foregoing opinion as Crossing No. 1 shall be effective only upon the condition that the existing crossing approximately one-half mile west of the proposed crossing shall be closed and abandoned to public travel.

(4) The permission to construct the crossing referred to in the foregoing opinion as Crossing No. 3 shall be effective only upon the condition that the public highway crossing known as Pacific avenue shall be closed and abandoned to public travel.

(5) The commission reserves the right to make such further orders relative to the location, construction, operation, maintenance and protection of said crossings as to it may seem right and proper, and to revoke its permission if, in its judgment, the public convenience and necessity demand such action.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the state of California.

Dated at San Francisco, California, this twenty-fourth day of November, 1917.

## DECISION No. 4877.

IN THE MATTER OF THE APPLICATION OF AMERICAN AUTO TOURS COMPANY FOR CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY TO OPERATE AUTOMOBILE STAGE SERVICE BETWEEN SAN DIEGO AND CAMP KEARNY.

Application No. 3267.

*Decided November 24, 1917.*

Applicant granted a certificate permitting the operation of automobile transportation service between the city of San Diego and Camp Kearny, provided all necessary permits are secured from the public authorities of the territory through which applicant proposes to operate, and also provided that no machines shall be operated under such certificate with the exception of machines owned by applicant or leased under contracts approved by the commission.

*C. M. Heeb*, for Applicant.

*Warren E. Libby*, for Pickwick Stages, Protestant.

*Robert G. Hill*, for United Stages, Protestant.

*L. D. Jennings*, for city of San Diego.

BY THE COMMISSION.

## OPINION.

Applicant herein requests that the Railroad Commission make its order declaring that public convenience and necessity require the operation by applicant of automobile stage service as a common carrier of passengers between San Diego and Camp Kearny.

Following is a description of equipment proposed to be operated in this service:

Make	Horsepower	Seating capacity	State license number
G.M.C. truck .....	30	14	145349
Moreland truck .....	30	25	89715
Peerless .....	48	12	229303
Packard truck .....	30	40	283912
Four Oakland Sixes—8 passenger.			

Applicant proposes to establish an hourly schedule, the first car to leave both terminals at 7.15 a.m. and hourly thereafter until 10.15 p.m.

Fares proposed to be charged for the service 60 cents one way and 90 cents round trip.

This application is one of six similar applications which by consent and agreement of all interested were consolidated for hearing before Examiner Encell at San Diego, it being stipulated that the evidence in one was to be considered as evidence in the others.

For a full explanation of the situation and the transportation conditions existing between San Diego and Camp Kearny and for the commission's views relative thereto reference is hereby made to the

opinion and order this day rendered in Application No. 3229 of A. G. Herring.

Applicant has not secured permits from either the city or county of San Diego as required by section 3, chapter 213, statutes 1917, but will make necessary application therefor. The order herein will not become effective until the Railroad Commission has issued a supplemental order herein reciting that such permits have been secured.

For the reasons set forth in the opinion in Application No. 3229, to which reference is made herein, we are of the opinion that there is public necessity for this proposed service and that this application should be granted subject to the conditions contained in the following order:

#### ORDER.

American Auto Tours Company having filed an application requesting that the Railroad Commission make its order declaring that public convenience and necessity require the operation by it of automobile stage service as common carrier of passengers between San Diego and Camp Kearny, a public hearing having been held, the matter having been submitted and being now ready for decision, the Railroad Commission of the state of California hereby declares that public convenience and necessity require the operation by American Auto Tours Company of automobile stage service as common carrier of passengers between San Diego and Camp Kearny, provided that this declaration shall not become effective until said American Auto Tours Company has secured from the Railroad Commission a supplemental order herein, reciting that applicant has filed certified copies of permits from the city and county of San Diego as required by section 3, chapter 213, laws of 1917, and provided further that the rights and privileges herein granted may not be assigned or transferred unless the written consent of the Railroad Commission to such assignment or transfer has first been secured; and

*It is hereby ordered* that no vehicle may be operated under this certificate unless such vehicle is owned by the applicant herein or is leased by such applicant under a contract or agreement on a basis satisfactory to the Railroad Commission.

Dated at San Francisco, California, this twenty-fourth day of November, 1917.

## DECISION No. 4878.

IN THE MATTER OF THE APPLICATION OF THE UNION AUTO STAGES  
FOR CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY TO  
OPERATE MOTOR STAGE OR TRUCK SERVICE BETWEEN SAN  
DIEGO AND CAMP KEARNY.

Application No. 3250.

*Decided November 24, 1917.*

Applicant granted a certificate permitting the operation of automobile transportation service between the city of San Diego and Camp Kearny, provided that all necessary permits are secured from the public authorities of the territory through which applicant proposes to operate, and also provided that no machines shall be operated under such certificate with the exception of machines owned by applicant or leased under contracts approved by the commission.

*A. L. Wissburg*, for Applicant.

*Warren E. Libby*, for Pickwick Stages, Protestant.

*Robert G. Hill*, for United Stages, Protestant.

*L. D. Jennings*, for city of San Diego.

BY THE COMMISSION.

## OPINION.

Applicant herein requests that the Railroad Commission make its order declaring that public convenience and necessity require the operation by applicant of automobile stage service as common carrier of passengers between San Diego and Camp Kearny.

Description of equipment proposed to be operated in this service is as follows:

Make	Horsepower	Seating capacity	State license number
Buick .....	40	5 passenger	189786
Jeffries .....	40	7 passenger	319603
Dodge .....	22	5 passenger	229054
Franklin .....	40	7 passenger	Applied for
Oakland .....	40	7 passenger	72548
Lexington .....	40	7 passenger	143144
Studebaker .....	30	7 passenger	245045
Page .....	40	7 passenger	Applied for
Dodge .....	22	5 passenger	312166
Overland .....	35	7 passenger	232201

Time schedule proposed by applicant is as follows:

Leave both terminals at 7.00 a.m. and hourly thereafter until 7.00 p.m.

Fares proposed to be charged for the service 50 cents one way and 90 cents round trip.

Terminus in San Diego Fifth and F streets.

Public hearings were held before Examiner Encell at San Diego.



This application is one of six similar applications which by consent and agreement of all interested were consolidated for hearing, it being stipulated that the evidence given in one was to be considered as evidence in the others.

Applicant has not secured a permit from the city of San Diego as required by section 3, chapter 213, laws of 1917, but intends to make application therefor. The order herein will not become effective until the Railroad Commission has issued a supplemental order herein reciting that such permit has been secured.

For a full explanation of the situation and of the transportation conditions existing between San Diego and Camp Kearny, and for the commission's views relative thereto, reference is hereby made to the opinion and order this day rendered in Application No. 3229 of A. G. Herring.

For reasons set forth in the opinion in Application No. 3229, above referred to, we are of the opinion that this application should be granted subject to the conditions contained in the following order:

#### ORDER.

The Union Auto Stages having filed an application requesting that the Railroad Commission make its order declaring that public convenience and necessity require the operation by it of an automobile stage service as common carrier of passengers between San Diego and Camp Kearny, a public hearing having been held, the matter having been submitted and being now ready for decision, the Railroad Commission of the state of California hereby declares that public convenience and necessity require the operation by the Union Auto Stages of automobile stage service as common carrier of passengers between San Diego and Camp Kearny, provided that this declaration shall not become effective until said Union Auto Stages has secured from the Railroad Commission a supplemental order herein reciting that it has filed certified copies of permits from the city of San Diego as required by section 3 of chapter 213, laws of 1917, and provided further that rights and privileges herein granted shall not be assigned or transferred unless the written consent of the Railroad Commission to such assignment or transfer has first been secured; and

*It is hereby ordered* that no vehicle may be operated under this certificate unless such vehicle is owned by the applicant herein or is leased by such applicant under a contract or agreement on a basis satisfactory to the Railroad Commission.

Dated at San Francisco, California, this twenty-fourth day of November, 1917.

## DECISION No. 4879.

IN THE MATTER OF THE APPLICATION OF HENRY STEEN FOR  
CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY TO  
OPERATE TRUCK SERVICE BETWEEN THE CITY OF SACRAMENTO  
AND THE TOWN OF DIXON AND INTERMEDIATE POINTS.

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Application No. 3259.

*Decided November 24, 1917.*

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Applicant granted a certificate permitting the operation of an auto truck for the transportation of freight between Sacramento, Davis and Dixon and intermediate points, provided all necessary permits are secured from the public authorities of the territory through which he proposes to operate.

*C. H. S. Bidwell*, for Applicant.

*Archibald Yell*, city attorney, by *J. V. Hart*, for city of Sacramento.

BY THE COMMISSION.

**OPINION.**

Henry Steen applies for a certificate that public convenience and necessity require him to operate an automobile truck carrying freight between Sacramento and Dixon via Davis.

A public hearing in the matter was held by Examiner Westover at Sacramento.

Applicant proposes to operate one two-ton Federal auto truck, 40 horsepower, one round trip daily, leaving Sacramento at 10 a.m. carrying freight at rates in accordance with schedule of rates filed with application. His Sacramento terminal is at 505 I street, but at Dixon and Davis he proposes to deliver and collect from all points within the respective city limits, and to make such collections and deliveries in Sacramento at points lying immediately on his regular fixed route.

Other carriers serving in this territory are Southern Pacific Company and what is known as Sacramento-Woodland Auto Truck and Winters Auto Truck. The two truck lines were in operation prior to May 1, 1917. The Winters truck, it appears from the testimony, does not take business for intermediate points but only between Sacramento and Winters. The Woodland truck operates out of the same Sacramento terminal as applicant, and over the same route as far as Davis, and handles business between Davis and Sacramento. There appears to be no objection on the part of the other carriers to the granting of the certificate applied for.

Applicant has procured permit as required by chapter 213, laws of 1917, from the city of Sacramento; and has applied for similar permits to the authorities of the cities of Davis and Dixon and the counties of Yolo and Solano, but the latter applications have not yet been acted upon.

Applicant began operating over the route in question July 1, 1917, and continued until about September 30, at which time he ceased operation when he learned that he was operating without authority. He reports that when it became known that he was to withdraw he received expressions of regret from merchants whom he served. They stated that with his service it was possible to order goods from Sacramento by telephone in the morning, and receive them by his service the same day, this being quicker than service by rail.

His statement of gross receipts for 34 days' operation in August and September amount to \$233.50, an average of \$7.35 per day.

#### ORDER.

Henry Steen having filed application for certificate that public convenience and necessity require the operation by him of an automobile truck between Sacramento and Dixon via Davis, and a hearing having been held thereon, the matter having been submitted and being now ready for decision, the Railroad Commission hereby declares that public convenience and necessity require the operation by said Henry Steen of an automobile truck service carrying freight between Sacramento and Dixon via Davis; provided, that this declaration shall not become effective until said Steen has procured from the Railroad Commission a supplemental order herein reciting that said Steen has filed herein certified copies of permits from the cities of Sacramento, Davis and Dixon and the counties of Yolo and Solano, as provided by section 3 of chapter 213, laws of 1917; and provided, further, that the rights and privileges herein granted shall not be assigned or transferred unless the written consent of the Railroad Commission to such assignment or transfer shall first have been secured.

Dated at San Francisco, California, this twenty-fourth day of November, 1917.

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#### DECISION No. 4880.

IN THE MATTER OF THE APPLICATION OF SOUTHERN COUNTIES GAS COMPANY OF CALIFORNIA FOR AUTHORITY TO ISSUE AND SELL ADDITIONAL BONDS IN THE AMOUNT OF THREE HUNDRED TWENTY-FOUR THOUSAND DOLLARS.

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#### Application No. 2974.

*Decided November 26, 1917.*

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Applicant authorized to issue \$79,000.00 face value of bonds, being a portion of bonds heretofore authorized for capital purposes, to be sold at not less than 85,

\$34,000.00 face value to discharge notes and accounts payable, the balance to reimburse treasury covering capital expenditures made.

*Hunsaker, Britt & LeRoy M. Edwards, by LeRoy M. Edwards and G. Harold Jancway, for Applicant.*

*LOVELAND, Commissioner.*

#### FIFTH SUPPLEMENTAL ORDER.

Whereas the Railroad Commission by Decision No. 4430, dated June 26, 1917, authorized Southern Counties Gas Company of California to issue \$324,000.00 of its first mortgage twenty-year 5½ per cent bonds payable May 1, 1936, subject to the terms and conditions of supplemental orders of the commission; and

Whereas applicant in the above-entitled matter has filed with the Railroad Commission its third supplemental petition asking authority to issue \$79,000.00 face value of said \$324,000.00 of bonds at not less than 85 per cent of their face value and use the proceeds to reimburse its treasury for capital expenditures or payment of indebtedness as directed by the commission; and

Whereas applicant reports in Exhibit "A," attached to the third supplemental application herein, that during the months of August, September and October, 1917, it has expended for permanent extensions, betterments and improvements to its existing plant and property, the sum of \$98,552.91; that under the provisions of its deed of trust it is entitled to issue bonds in an amount equal to 80 per cent of said capital expenditures; that because of such capital expenditures it is now entitled to issue bonds in the amount of \$78,842.32; that prior to August, 1917, it has expended for capital purposes the sum of \$403.40 against which no bonds have been issued; that its net earnings for the twelve months ending October 31, 1917, are in excess of one and one-half times the interest on the outstanding bonds plus the interest on the bonds now to be issued and that because of the capital expenditures herein recited it is now permitted under its deed of trust to issue bonds in the sum of \$79,165.04; and

Whereas applicant, in Exhibit No. 1, Third Supplemental Application No. 2974, reports that \$351,612.75 of its notes and accounts payable represent capital expenditures; and also reports in Exhibit No. 2, Third Supplemental Application No. 2974, that \$97,398.24 of its notes and accounts payable represent indebtedness incurred for supplies and miscellaneous purposes, and a public hearing having been held, and the Railroad Commission being of the opinion that the money, property or labor to be procured or paid for by the issue of \$79,000.00 of bonds is reasonably required for the purpose or purposes specified in the order, and that said purpose or purposes are not in whole or in part reasonably chargeable to operating expenses or to income,

*It is hereby ordered* that Southern Counties Gas Company of California be and it is hereby authorized to issue and sell at not less than 85 per cent of their face value in cash, plus accrued interest, \$70,000.00 of its first mortgage twenty-year 5½ per cent bonds due and payable May 1, 1936, upon the following conditions and not otherwise:

(1) The proceeds from \$34,000.00 of the bonds herein authorized to be issued shall be used to pay notes and accounts payable, listed in Exhibit No. 1, Third Supplemental Application No. 2974.

(2) The proceeds from \$45,000.00 face value of bonds herein authorized to be issued shall be used to reimburse applicant's treasury because of earnings expended for capital purposes and after such reimbursement shall be used to pay notes and accounts payable, listed in Exhibit No. 2, Third Supplemental Application No. 2974, or notes and accounts payable listed in Exhibit No. 1, Third Supplemental Application No. 2974.

(3) Southern Counties Gas Company of California shall keep separate, true and accurate accounts showing the receipt and application in detail of the proceeds of the sale of the bonds herein authorized to be issued; and on or before the twenty-fifth day of each month the company shall make verified reports to the Railroad Commission stating the sale or sales of said bonds during the preceding month, the terms and conditions of the sale, the moneys realized therefrom, and the use and application of such moneys, all in accordance with this commission's General Order No. 24, which order, in so far as applicable, is made a part of this order.

(4) The authority herein granted to Southern Counties Gas Company of California to issue bonds is conditioned upon the payment by applicant of the fee prescribed by the Public Utilities Act.

(5) The authority herein granted to issue bonds applies only to such bonds as shall be issued on or before February 28, 1918.

The foregoing fifth supplemental order is hereby approved and ordered filed as the fifth supplemental order of the Railroad Commission.

Dated at San Francisco, California, this twenty-sixth day of November, 1917.

## DECISION No. 4881.

IN THE MATTER OF THE APPLICATION OF REDWOOD TRANSIT COMPANY FOR AN ORDER DECLARING THAT PUBLIC CONVENIENCE AND NECESSITY REQUIRE THE OPERATION OF TWO AUTOMOBILES AS COMMON CARRIERS OF PASSENGERS BETWEEN REDWOOD CITY AND CAMP FREMONT, MENLO PARK.

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Application No. 3161.

*Decided November 26, 1917.*

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BY THE COMMISSION.

**FIRST SUPPLEMENTAL ORDER.**

Good cause appearing,

*It is hereby ordered* that the order in the above-entitled proceeding heretofore made on September 26, 1917 (Decision No. 4678), be and the same is hereby amended to read as follows:

Redwood Transit Company having filed herein a petition asking that the Railroad Commission make its order declaring that public convenience and necessity require the operation by petitioner of an automobile stage service between Redwood City and Camp Fremont, a public hearing having been held, the matter having been submitted and being now ready for decision, the Railroad Commission finds as a fact that public convenience and necessity require the operation by Redwood Transit Company of an automobile stage service as common carriers of passengers between Redwood City and Camp Fremont, subject to the conditions hereinafter specified.

The Railroad Commission hereby declares that public convenience and necessity require the operation by Redwood Transit Company of an automobile stage service as common carriers of passengers between Redwood City and Camp Fremont; provided, that the rights and privileges herein granted shall not be transferred or assigned unless the Railroad Commission's written consent to such assignment or transfer shall first have been secured.

Dated at San Francisco, California, this twenty-sixth day of November, 1917.

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DECISION No. 4882.

IN THE MATTER OF THE APPLICATION OF SATICOY WAREHOUSE COMPANY FOR PERMISSION TO SELL AND ISSUE NOT TO EXCEED TWENTY-FIVE THOUSAND DOLLARS OF ITS CAPITAL STOCK.

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Application No. 3243.

*Decided November 27, 1917.*

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Applicant authorized to issue 500 shares of its capital stock of the par value of \$50.00 per share, to be sold at not less than par, proceeds of 437 shares to be

used for the purpose of acquiring property and constructing a warehouse, proceeds of the balance of stock to be used only for such capital purposes as are hereafter authorized by the commission.

*George E. Farrand*, for Applicant.

BY THE COMMISSION.

#### OPINION.

This is an application of Saticoy Warehouse Company for authority to issue and sell \$25,000.00 par value of capital stock for the purpose of constructing and equipping a warehouse at Saticoy, Ventura County. Applicant also asks the commission to make its order, if such order is necessary, declaring that public convenience and necessity require applicant to operate its warehouse.

Under the terms of the Public Utilities Act, warehouse companies may begin operation without an order from the commission.

Applicant was incorporated August 30, 1917, under the laws of the state of California for the purpose of engaging in a general public utility warehouse business. It has a total authorized capital stock issue of \$30,000.00, divided into 600 shares of the par value of \$50.00 per share. None of the stock except shares necessary to qualify directors has been issued. Applicant now desires to sell 500 shares of stock at par and to use the proceeds in paying for its warehouse building, equipment, etc.

At the request of the commission Saticoy Warehouse Company has filed a detailed statement of its capital expenditures to November 1, 1917. This statement may be summarized as follows:

Real estate .....	\$1,500 00
Warehouse building and equipment.....	18,268 96
Spur track .....	1,746 50
Organization and legal expenses.....	309 45

Total to November 1, 1917.....	\$21,824 91
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The promoters of Saticoy Warehouse Company are lima bean growers, and it is their purpose to offer stock for sale to other farmers on the basis of one share of stock for each two hundred 80-pound bag of beans produced. At the hearing it was stated that subscriptions have been received for between eighteen and nineteen thousand dollars par value of stock.

At the present time Southern Pacific Milling Company maintains a public utility warehouse in the town of Saticoy. Applicant alleges, however, that there is a demand for additional warehouse facilities and that the operation of an additional warehouse will be of great benefit to the bean growers of this vicinity.

Saticoy Warehouse Company proposes to charge the same rates as Southern Pacific Milling Company. No data was submitted by the

company to show what its future earnings will be under these rates. It was stated, however, that the primary object of the company will be the rendering of efficient service rather than the securing of a return upon the invested capital.

**ORDER.**

Saticoy Warehouse Company having applied to this commission for authority to issue and sell 500 shares of stock of the par value of \$50.00 per share as hereinbefore set forth, and a public hearing having been held, and it appearing to this commission that applicant's request is reasonable and should be granted and that the money, property or labor to be procured or paid for by such issue is reasonably required for the purposes set forth in the order herein, which purposes are not reasonably chargeable in whole or in part to operating expenses or to income,

*It is hereby ordered* that Saticoy Warehouse Company be and it is hereby authorized to issue and sell 500 shares of its capital stock of the par value of \$50.00 per share, upon the following conditions and not otherwise:

1. The stock herein authorized to be issued shall be sold so as to net applicant not less than its full par value of \$50.00 per share.

2. The proceeds from the sale of 437 shares of stock, or so much thereof as may be necessary, shall be used by applicant solely for the purpose of acquiring property, construct its warehouse and pay organization and legal expenses as the same are set forth in a statement filed by applicant in this proceeding on November 12, 1917.

The proceeds from the sale of the remaining 63 shares of stock shall be used by applicant only for such capital expenditures as may hereafter be approved by this commission in a supplemental order.

3. Saticoy Warehouse Company shall keep separate, true and accurate accounts showing the receipt and application in detail of the proceeds of the sale of the stock herein authorized to be issued; and on or before the twenty-fifth day of each month the company shall make verified reports to the Railroad Commission stating the sale or sales of said stock during the preceding month, the terms and conditions of the sale, the moneys realized therefrom, and the use and application of such moneys, all in accordance with this commission's General Order No. 24, which order, in so far as applicable, is made a part of this order.

4. The authority herein granted shall apply only to such stock as shall have been issued on or before July 31, 1918.

Dated at San Francisco, California, this twenty-seventh day of November, 1917.



## DECISION No. 4883.

IN THE MATTER OF THE APPLICATION OF F. W. GOMPH, AGENT, FOR AUTHORITY TO AMEND PACIFIC FREIGHT TARIFF BUREAU LOCAL AND JOINT FREIGHT TARIFF No. 42-B, C. R. C. No. 105, NAMING TRANSHIPMENT CLASS AND COMMODITY RATES FROM SAN FRANCISCO, SAN DIEGO, SAN PEDRO AND WILMINGTON TO POINTS ON LINES OF THE ATCHISON, TOPEKA AND SANTA FE RAILWAY COMPANY AND POINTS ON LINES OF SOUTHERN PACIFIC COMPANY, AND FROM AND TO OTHER POINTS AS INDICATED ON TITLE PAGE OF TARIFF WHEN RECEIVED FROM, OR DELIVERED TO WATER CARRIERS AT PORTS MENTIONED, SAID AMENDMENT TO RESTRICT RATES TO SHIPMENTS DELIVERED TO WATER CARRIERS FROM OCEAN TRANSPORTATION.

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Application No. 3317.*Decided November 27, 1917.*

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BY THE COMMISSION.

**ORDER OF DISMISSAL.**

Complainant in the above-entitled proceeding having, on November 20, 1917, made written request to this commission that the above-entitled proceeding be dismissed,

*It is hereby ordered* that the above-entitled proceeding be and the same is hereby dismissed.

Dated at San Francisco, California, this twenty-seventh day of November, 1917.

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DECISION No. 4884.

H. H. DENISON

*vs.*

SOUTHERN PACIFIC COMPANY.

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Case No. 1131.*Decided November 26, 1917.*

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BY THE COMMISSION.

**ORDER OF DISMISSAL.**

Complainant in the above-entitled proceeding having, on November 24, 1917, made written request to this commission that the above-entitled proceeding be dismissed,

*It is hereby ordered* that the above-entitled proceeding be and the same is hereby dismissed.

Dated at San Francisco, California, this twenty-sixth day of November, 1917.

DECISION No. 4885.

H. H. DENISON

vs.

SOUTHERN PACIFIC COMPANY.

Case No. 1146.

*Decided November 26, 1917.*

BY THE COMMISSION.

**ORDER OF DISMISSAL.**

Complainant in the above-entitled proceeding having, on November 24, 1917, made written request to this commission that the above-entitled proceeding be dismissed,

*It is hereby ordered* that the above-entitled proceeding be and the same is hereby dismissed.

Dated at San Francisco, California, this twenty-sixth day of November, 1917.

DECISION No. 4886.

IN THE MATTER OF THE APPLICATION OF THE SACRAMENTO VALLEY ELECTRIC RAILROAD COMPANY FOR AUTHORITY TO ISSUE ITS PROMISSORY NOTE IN THE AMOUNT OF SIXTEEN THOUSAND EIGHT HUNDRED FIFTY-SIX DOLLARS AND SEVENTY CENTS TO OAKLAND, ANTIOCH AND EASTERN RAILWAY COMPANY.

Application No. 1075.

*Decided November 27, 1917.*

BY THE COMMISSION.

**ORDER OF DISMISSAL.**

Good cause appearing,

*It is hereby ordered* that the application in this proceeding be and the same is hereby dismissed without prejudice.

Dated at San Francisco, California, this twenty-seventh day of November, 1917.

## DECISION No. 4887.

IN THE MATTER OF THE APPLICATION OF LAKE TAHOE RAILWAY  
AND TRANSPORTATION COMPANY FOR AN ORDER AUTHORIZING  
THE ISSUE OF CERTAIN PROMISSORY NOTES.

Application No. 1955.

*Decided November 27, 1917.*

Applicant authorized to issue notes of an aggregate face value of \$50,000.00 for a term of not to exceed two years, such notes to be issued for the purpose of refunding outstanding notes of a like face value.

BY THE COMMISSION.

## FIRST SUPPLEMENTAL ORDER.

In its supplemental petition filed November 19, 1917, in the above-entitled matter, Lake Tahoe Railway and Transportation Company asks the Railroad Commission to modify its order in Decision No. 2922, dated November 20, 1915 (Vol. 8, Opinions and Orders of the Railroad Commission of California, page 504), so as to permit applicant to issue one-day notes to refund the \$50,000.00 of notes authorized to be issued pursuant to Decision No. 2922, said one-day notes to bear interest at the rate of 5 per cent per annum and the payment thereof to be secured by a guaranty signed by all the stockholders of the Lake Tahoe Railway and Transportation Company; and the Railroad Commission being of the opinion that the supplemental petition herein should be granted,

*It is hereby ordered* that Lake Tahoe Railway and Transportation Company be and it is hereby authorized to issue its promissory notes for terms not exceeding two years from the date hereof at rates of interest and in amounts not to exceed those now in effect as to each of said notes, respectively, and payable to the same party as at present; namely, Union Trust Company of San Francisco, in renewal of the following notes:

Amount	Interest	Date of issue.	Term of note
\$25,000 00	5 per cent	January 19, 1916.....	1 day
17,500 00	5 per cent	January 19, 1916.....	1 day
5,000 00	5 per cent	January 19, 1916.....	1 day
2,500 00	5 per cent	January 19, 1916.....	1 day

upon the following conditions and not otherwise:

1. Lake Tahoe Railway and Transportation Company shall issue said notes so as to net not less than the face value thereof.

2. Lake Tahoe Railway and Transportation Company is hereby authorized during the period of twenty-three months from the date hereof to issue further notes in renewal of notes herein authorized on the same terms, provided that the combined terms of the notes herein authorized and those issued in renewal thereof, respectively, shall not exceed two years from the date of this order.

3. Lake Tahoe Railway and Transportation Company shall report to the Railroad Commission within twenty days after the issue of the respective notes herein authorized, the fact and the date of issue, the face value of the respective notes, the rate of interest and the application of the proceeds as required by this commission's General Order No. 24, which order in so far as applicable is made a part of this order.

Dated at San Francisco, California, this twenty-seventh day of November, 1917.

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DECISION No. 4888.

IN THE MATTER OF THE APPLICATION OF THE WESTERN PACIFIC RAILROAD COMPANY ET AL FOR AUTHORIZATION OF PROCEEDINGS PURSUANT TO THE PLAN AND AGREEMENT OF REORGANIZATION.

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Application No. 2351.

*Decided November 27, 1917.*

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BY THE COMMISSION.

**FOURTH SUPPLEMENTAL ORDER.**

Whereas the Railroad Commission by its order in Decision No. 3505, dated July 12, 1916 (Vol. 10, Opinions and Orders of the Railroad Commission, p. 563), authorized The Western Pacific Railroad Company, among other things, to issue \$20,000,000.00 face value of its 5 per cent bonds at 90 and use not exceeding \$3,514,000.00 of the proceeds to purchase new passenger and freight equipment; and

Whereas petitioner now requests the Railroad Commission to modify its order in said Decision No. 3505 so as to permit it to expend of the proceeds from the sale of the bonds, for the purchase of 1,500 box cars and 400 gondola cars an additional sum, not exceeding \$2,500,000.00, and it appearing to the Railroad Commission that this request should be granted,

*It is hereby ordered* that the order in Decision No. 3505, dated July 12, 1916, be and the same is hereby amended so as to permit The Western Pacific Railroad Company to expend an amount not in excess of \$2,500,000.00 of the proceeds from the sale of its bonds, for the purchase of 1,500 box cars and 400 gondola cars, said \$2,500,000.00 being in addition to the \$3,514,000.00 heretofore appropriated for the purchase of equipment.

*It is hereby further ordered* that the order in Decision No. 3505, dated July 12, 1916, as amended, shall remain in full force and effect except as modified by this fourth supplemental order.

Dated at San Francisco, California, this twenty-seventh day of November, 1917.

## DECISION No. 4889.

IN THE MATTER OF THE APPLICATION OF SAN JOAQUIN LIGHT AND  
POWER CORPORATION FOR AN ORDER AUTHORIZING THE ISSUE  
AND SALE OF BONDS.

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Application No. 3140.

*Decided November 27, 1917.*

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BY THE COMMISSION.

**THIRD SUPPLEMENTAL ORDER.**

Whereas Condition No. 3 of the order in Decision No. 4602, dated August 30, 1917, authorizing San Joaquin Light and Power Corporation to issue \$745,000.00 of bonds reads:

“No part of the proceeds of the bonds hereby authorized to be issued shall be expended by applicant until this commission has made its supplemental order specifying the purposes for which such proceeds shall be expended.”

And

Whereas San Joaquin Light and Power Corporation reports that it has expended for capital purposes subsequent to December 31, 1916, the sum of \$1,067,613.77; and

Whereas applicant has heretofore been authorized to use the proceeds of \$503,000.00 of said \$745,000.00 of bonds to reimburse its treasury in part for capital expenditures subsequent to December 31, 1916; and

Whereas applicant now requests authority to use the proceeds of \$242,000.00 of said \$745,000.00 of bonds to reimburse its treasury in part for capital expenditures subsequent to December 31, 1916, and thereafter use the proceeds to pay current indebtedness; and good cause appearing,

*It is hereby ordered* that San Joaquin Light and Power Corporation be and it is hereby authorized to use the proceeds of \$242,000.00 of bonds authorized to be issued by the order in Decision No. 4602, dated August 30, 1917, to reimburse its treasury in part for capital expenditures subsequent to December 31, 1916, provided that the proceeds of said \$242,000.00 of bonds after such reimbursement of the treasury be used by applicant to pay current indebtedness.

*It is hereby further ordered* that the order in Decision No. 4602, dated August 30, 1917, as amended, shall remain in full force and effect except as modified by this third supplemental order.

Dated at San Francisco, California, this twenty-seventh day of November, 1917.

## DECISION No. 4890.

IN THE MATTER OF THE APPLICATION OF KEYS & ASHER FOR  
AUTHORITY TO ESTABLISH RATES FOR THE STORAGE AND  
TRANSFER OF GRAIN, PRODUCE AND MERCHANDISE IN THE  
KEYS & ASHER WAREHOUSE IN STOCKTON, CALIFORNIA.

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Application No. 3203.

*Decided November 27, 1917.*

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Applicant desiring to engage in the warehouse business in the city of Stockton, applies for and is granted permission to put into effect a schedule of rates for the storage of various commodities, equal to the storage rates at present in effect in the same locality.

*T. J. Keys, for Applicant.*

BY THE COMMISSION.

**OPINION.**

Petitioner herein desires to engage in the business of storing and transferring grain, beans, nuts, dried fruit and merchandise at Stockton, California.

A public hearing was held in Stockton in this matter on October 17, 1917.

The property to be used by petitioner in relation with the business which it seeks to engage in is leased by it from one M. P. Stein, for a rental which amounts to a certain percentage of the net returns.

Petitioner asks that the commission permit it to establish rates which are the same as those now charged by other warehouses operating in Stockton. We know of no good reason why petitioner should not be authorized to charge the same rates as its competitors.

**ORDER.**

Keys & Asher, a copartnership, having applied to the Railroad Commission for authority to establish its warehouse rates, applicable in the city of Stockton, a public hearing having been held, the matter having been submitted, and being now ready for decision, the Railroad Commission hereby finds as a fact that the rates hereinafter set forth are just and reasonable rates, and basing its order on the foregoing finding of fact,

*It is hereby ordered* that Keys & Asher, a copartnership, be and it is hereby authorized to publish and file with the Railroad Commission

and thereafter collect the following schedule of rates at its warehouse operated in the city of Stockton, to wit:

### WAREHOUSE CHARGES.

#### GRAIN.

##### *\*Storage of Grain.*

For 30 days or less, per ton-----	\$0.50
For 60 days or any fraction over 30 days, per ton-----	.75
Over 60 days, to include May 31 following, per ton-----	1.00

##### *†Transfer of grain through warehouse.*

Including 10 days' storage, unloading from cars or teams, weighing in and loading out, per ton-----	.35
Reweighing, for convenience of owner, per ton-----	.10

##### *Loading box cars.*

When necessary to pile in vertical tiers to a height of more than seven sacks, additional charge, applicable to entire contents of car, per ton-----	.10
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##### *Loading or unloading "gondola" cars.*

Additional charge applicable to entire contents of car, per ton-----	.15
Stenciling sacks, per ton-----	.03
Deliveries, in lots less than 2 tons, each delivery-----	.25

\*Includes unloading from cars or teams, weighing in, weighing out, and loading on cars to a height not to exceed seven tiers of sacks.

†Upon arrival of grain intended for transfer, prompt notice to that effect must be given indicating whether for shipment by rail or water.

#### BEANS.

##### *\*Storage of beans.*

For 30 days, or less, per ton-----	\$0.50
For 60 days, or any fraction over 30 days, per ton-----	.75
Over 60 days, to include August 31 following, per ton-----	1.00

##### *†Transfer of beans through warehouse.*

Including 10 days storage while in transit for cleaning, per ton-----	.25
Deliveries, in lots less than 1 ton, each delivery-----	.25

\*Includes weighing in, weighing out and loading out.

†Upon arrival of beans intended for cleaning while in transit, prompt notice to that effect must be given and further disposition indicated.

Necessary resacking or repairing sacks of all kinds, when not attributable to warehouseman's neglect, will be charged to the owner of the commodity at the actual cost of labor and material used.

#### \*ONIONS AND POTATOES.

##### *†Storage of onions and potatoes.*

For 30 days, or less, per sack-----	\$0.03
For each month or fractional part thereof, after thirty days, per sack-----	.01
Loading "decked" cars, additional charge, per carload-----	.60
Deliveries, in lots less than 1 ton, additional charge, each delivery-----	.25

\*Owing to perishable nature of potatoes and onions, right is reserved to compel removal after five days' notice.

†Includes weighing out and loading on cars (not "decked"), but owner must deliver into warehouse.

#### SEEDS, SMALL.

(Including alfalfa, melilotus, mustard, etc.)

Storage of seeds, for season, per ton or fraction-----	\$1.50
Deliveries, in lots less than quantities originally stored, each delivery-----	.25

## BAGS, EMPTY, IN BALES.

*Storage of bags* (in bales of 1,000 each).

For 30 days, per bale----- .15

For each month after first 30 days, per bale----- .10

*Unloading* from cars, per bale----- .06*Storage of bags* (in bales less than 1,000 each).

For 30 days, per bale----- .10

For each month after first 30 days, per bale----- .07½

*Unloading* from cars, per bale----- .04*Deliveries* of bags in less than bale lots, each delivery----- .25

Dated at San Francisco, California, this twenty-seventh day of November, 1917.

## DECISION No. 4891.

IN THE MATTER OF THE APPLICATION OF THE QUINCY WESTERN RAILWAY COMPANY AND QUINCY LUMBER COMPANY FOR PERMISSION TO ENTER INTO A CERTAIN CONTRACT FOR THE SALE AND PURCHASE OF A RAILROAD, ITS APPURTENANCES AND EQUIPMENT, AND THE QUINCY WESTERN RAILWAY COMPANY QUINCY LUMBER COMPANY AND QUINCY RAILROAD COMPANY FOR PERMISSION TO MAKE CONVEYANCE OF SAID RAILROAD, ITS APPURTENANCES AND EQUIPMENT, TO QUINCY RAILROAD COMPANY, AND FOR AUTHORITY TO QUINCY RAILROAD COMPANY TO ISSUE STOCK.

## Application No. 3307.

*Decided November 27, 1917.*

Quincy Western Railway Company authorized to transfer its properties to the Quincy Railroad Company for the sum of \$25,000.00 and the latter to issue \$40,000.00 face value of its common capital stock to be sold at not less than par, \$25,000.00 of the proceeds to pay for the railroad properties, the balance to be expended only for such other capital purposes as are hereinafter designated by the commission.

*Thomas H. Breeze*, for Applicant.

BY THE COMMISSION.

## OPINION.

Quincy Western Railway Company asks authority to sell to Quincy Railroad Company for \$25,000.00 the properties described in Exhibits "A" and "B" attached to the original petition herein. The properties are to be transferred free and clear of all incumbrances. Quincy Railroad Company asks authority to issue at par, \$40,000.00 of its common capital stock. Of the proceeds it proposes to use \$25,000.00 to purchase the properties of Quincy Western Railway Company. The remaining \$15,000.00 of the proceeds it desires to expend for improvements, payment of organization expenses and miscellaneous charges, as permitted by the Railroad Commission in a supplemental order.



A hearing on the above-entitled petition, as amended, was held by Examiner Encell on November 19, 1917, in San Francisco. Petitioner requests the commission to consider in this proceeding the evidence offered by it in connection with Application No. 3199.

Quincy Western Railway Company was incorporated October 1, 1909, under the laws of California. It owns and operates a standard gauge steam railroad between Quincy Junction on the line of The Western Pacific Railroad Company and the city of Quincy in Plumas County, a distance of 5.24 miles. In Decision No. 2864, dated October 30, 1915 (Volume 8, Opinions and Orders of the Railroad Commission of California, p. 340), the Railroad Commission found the reproduction cost of its properties, using the market value of the land, to be \$76,397.53, as of July 30, 1914, and the reproduction cost less depreciation to be \$65,531.05.

In Application No. 3199 filed September 15, 1917, Quincy Western Railway Company asked permission to discontinue the operation of its line of railway. At the hearing held on this application at Quincy on October 5, 1917, before Examiner Encell, the Quincy Lumber Company, which owns and operates a lumber mill at Quincy, appeared and protested against the granting of Application No. 3199. Protestant offered to purchase the Quincy Western Railway Company properties for \$25,000.00. This offer was accepted by the railway. On November 3, Quincy Western Railway Company filed its application with the commission for authority to sell its properties to the Quincy Lumber Company or to such person or corporation as the purchaser directs. On November 10 the amended petition herein was filed. This contemplates that the properties be transferred directly from the Quincy Western Railway Company to the Quincy Railroad Company for the sum of \$25,000.00.

On September 1, 1917, Quincy Western Railway Company reported assets and liabilities as follows:

<i>Assets.</i>	
Road .....	\$57,027 18
Equipment .....	12,533 23
General expenditures .....	6,558 18
Additions and betterments .....	4,877 09
Cash .....	1,662 21
Accounts receivable .....	1,259 39
Treasury stock .....	1,115 00
Deferred charges .....	345 41
Deficit .....	27,478 86
Total assets .....	\$112,856 55

*Liabilities.*

Stock outstanding .....	\$62,881 00
Assessment No. 1 .....	6,288 10
Mortgage indebtedness .....	25,363 40
Bills payable .....	9,098 52
Accounts payable .....	1,585 63
Interest payable .....	3,842 30
Reserve for depreciation .....	3,797 60
Total liabilities .....	\$112,856 55

Of the mortgage indebtedness, \$22,641.67 is payable to the Calaveras Dredging Company and \$2,721.73 to H. C. Flournoy, B. Schneider and E. Huskinson. A. L. Dahl, secretary of Quincy Western Railway Company, testified that satisfactory arrangements had been made for the payment and release of the company's indebtedness.

Quincy Railroad Company was organized in November, 1917. It has an authorized capital stock issue of \$75,000.00, divided into 750 shares of \$100.00 each. As above stated it now asks authority to issue \$40,000.00 par value of its stock at par and use \$25,000.00 of the proceeds to pay for the properties of the Quincy Western Railway Company, as the same existed on October 31, 1917. The remaining \$15,000.00 it desires to expend for such purposes as may hereinafter be designated by the Railroad Commission in a supplemental order.

The testimony offered in this proceeding as well as Application No. 3199 indicates that the transfer of the properties from the Quincy Western Railway Company to the Quincy Railroad Company, controlled by the Quincy Lumber Company, will be beneficial to the residents of Quincy and adjacent territory.

**ORDER.**

Quincy Western Railway Company having applied to the Railroad Commission for authority to sell its properties, described in Exhibits "A" and "B" attached to the original petition herein, to Quincy Railroad Company and Quincy Railroad Company having applied to the Railroad Commission for authority to issue \$40,000.00 of stock, and a public hearing having been held, and the commission being of the opinion that the money, property or labor to be procured or paid for by such issue of stock is reasonably required for the purpose or purposes specified in the order and that such purpose or purposes are not in whole or in part reasonably chargeable to operating expenses or to income,

*It is hereby ordered* that Quincy Western Railway Company be and it is hereby granted authority to sell free and clear of all incumbrances its properties described in Exhibits "A" and "B" attached to the original petition herein to Quincy Railroad Company for the sum of \$25,000.00.

*It is hereby further ordered that Quincy Railroad Company be and it is hereby granted authority to issue at not less than the par value thereof in cash \$40,000.00 of its common capital stock, upon the following conditions and not otherwise:*

(1) Of the proceeds obtained from the sale of the stock, \$25,000.00 shall be used to purchase the properties of Quincy Western Railway Company described in Exhibits "A" and "B" attached to the original petition herein.

(2) The remainder of the proceeds from the sale of the stock shall be expended only for such purposes as may hereinafter be designated by the commission in a supplemental order.

(3) The consideration at which the public utility properties are herein authorized to be transferred, shall not be considered as a measure of value of said properties before this commission or any other public body for rate fixing or any other purpose.

(4) The authority herein granted to transfer the public utility properties shall not become effective until the commission has approved the book entries relative to the transfer and purchase of the properties.

(5) Within thirty days after the execution by the petitioners herein of an instrument of conveyance transferring the property herein referred to, a certified copy of said instrument of conveyance shall be filed with the Railroad Commission by Quincy Railroad Company.

(6) Quincy Railroad Company shall keep a true and accurate record of the issue of the stock herein authorized, and shall on or before the twenty-fifth day of the month following the issue of any of said stock make a verified report to the Railroad Commission, setting forth the fact and date of issue, the par value of the stock so issued, the amount received therefor, and the disposition of the proceeds thereof, all in accordance with the Railroad Commission's General Order No. 24, which order, in so far as applicable, is made a part of this order.

(7) The authority herein granted to transfer property and issue stock shall apply only to such property as may be transferred and to such stock as may be issued, on or before June 30, 1918.

Dated at San Francisco, California, this twenty-seventh day of November, 1917.

## DECISION No. 4892.

IN THE MATTER OF THE APPLICATION OF OVERLAND STAGE COMPANY FOR CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY TO OPERATE AUTO STAGE SERVICE BETWEEN MARYSVILLE AND HAMMONTON, CALIFORNIA.

## Application No. 3308.

IN THE MATTER OF THE APPLICATION OF OVERLAND STAGE COMPANY FOR CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY TO OPERATE AUTO STAGE SERVICE BETWEEN MARYSVILLE AND BIGGS, CALIFORNIA.

## Application No. 3309.

*Decided November 27, 1917.*

Applicant applies for a certificate permitting the operation of automobile stages for the transportation of passengers between Marysville, Marigold and Hammonton and between Marysville, Live Oak, Gridley and Biggs and intermediate points, and investigation showing that the territory in question is being adequately served by existing transportation companies which can conveniently handle all business offered, petition dismissed.

*Ray Manwell*, for Applicant.

*Richard Belcher*, for Smith Bros., Protestant, Application No. 3308.

*J. R. Wilson* and *J. D. Rowray*, for Northern Electric Railway, Protestant, Application No. 3309.

*J. L. Kelly* and *R. F. Watson*, for Southern Pacific Company, Protestant, Application No. 3309.

BY THE COMMISSION.

## OPINION.

In Application No. 3308, applicants ask that the Railroad Commission make its order declaring that public convenience and necessity require the operation by it of auto stage service for the transportation of passengers between Marysville and Hammonton via Marigold, a distance of twelve miles, both in Yuba County.

In Application No. 3309 applicants ask for a similar order to operate auto stage service between Marysville, Yuba County, and Biggs, Butte County, a distance of approximately twenty-four miles.

Public hearings were held by Examiner Westover at Marysville upon both applications.

Applicants have not in either instance secured permits from the city and county authorities, as is required by section 3, chapter 213, laws of 1917.

In Application No. 3308 applicants propose to operate one seven-passenger, 40-horsepower Buick automobile, making three round trips per day on following schedule:

P.M.	P.M.	A.M.	Stations	A.M.	P.M.	P.M.
Lv. 6.00	12.45	7.45	Hammonton	Ar. 11.30	5.30	11.20
Lv. 6.15	1.00	8.00	Marigold	Lv. 11.00	5.00	10.50
Ar. 6.45	1.30	8.30	Marysville	Lv. 10.45	4.45	10.35

Terminus—Marysville, Stucks Drug Store; Hammonton, Hammonton Hotel.

Applicants propose to charge the following fares for the service:

Between	Marysville	Marigold
Marysville -----	-----	-----
Marigold -----	\$0.50 -----	-----
Round trip -----	1.00 -----	-----
Hammonton -----	.75 -----	\$0.25
Round trip -----	1.00 -----	.50

It appears that there are now two other stage lines operating between Marysville and Hammonton over the same route and according to time schedules filed with the commission on the following schedule:

W. R. Conlin, Marysville-Nevada City Auto Service:

P.M.	A.M.		A.M.	P.M.
Lv. 1.00	9.30	Marysville	Ar. 11.30	1.00
Ar. 1.40	10.10	Hammonton	Lv. 10.50	12.20

Above schedule operated by W. R. Conlin between Marysville and Smartsville or Nevada City via Hammonton.

Smith Bros. (Kewple Stage Co.) Daily.						
P.M.	P.M.	A.M.	Stations	A.M.	P.M.	P.M.
Lv. 6.30	1.00	8.00	Hammonton	Ar. 11.40	5.40	11.40
Ar. 7.10	1.40	8.40	Marysville	Lv. 11.00	5.00	11.00

Overland Stage Company is a fictitious name under which J. H. Cook and George Demmer, equal partners, wish to operate.

At the hearing applicants presented a petition signed by 83 residents of Hammonton to the effect that the signers of said petition were personally acquainted with Mr. George Demmer, that they had traveled frequently with him, that they knew him to be a good, careful driver, and that they believed it would be for the good of all that a competing line be in operation. This petition asks that the Railroad Commission issue to applicant the certificate of public convenience and necessity applied for.

Mr. Demmer drove a car for eight weeks during June, July and August, 1917, for Smith Bros., protestants. During a period of one month and five days the car he drove earned a gross revenue of \$440.00 at a fare of 50 cents one way and \$1.00 round trip, indicating an average of approximately twelve round trip passengers per day.

Mr. Demmer testified that on Saturdays, Sundays, holidays and special occasions his car was overcrowded, but that then and now the

cars operated by Smith Bros. are sufficient to care for all traffic during five days in the week. Smith Bros. have arranged for five other cars that they hire with drivers to put in the service when traffic requires it.

Smith Bros. presented testimony showing that two or three cars take care of all business except Saturdays, Sundays, holidays and special occasions, at which times their extra hired equipment is sufficient to furnish adequate service.

Applicants not having shown that public convenience and necessity require the proposed service, Application No. 3308 will be denied.

In Application No. 3309 wherein applicant seeks certificate to operate between Marysville and Biggs, the following fares are proposed:

Between—	Marysville.	Yuba City.	Live Oak.	Gridley.
Marysville-----				
Yuba City-----	.05			
Live Oak-----	.50	.50		
Gridley-----	.75	.75	.25	
Biggs-----	1.00	1.00	.50	.25

For this service applicants propose to purchase a high class seven-passenger car and operate same on following daily time schedule.

P.M.	P.M.	A.M.	Stations	A.M.	P.M.	P.M.
Lv. 5.30	2.30	11.15	Marysville	Ar. 8.55	2.25	5.25
Lv. 5.40	2.40	11.25	Yuba City	Lv. 8.45	2.15	5.15
Lv. 6.15	3.15	12.00	Live Oak	Lv. 8.10	1.40	4.40
Lv. 6.40	3.40	12.25	Gridley	Lv. 7.45	1.15	4.15
Ar. 6.55	3.55	12.40	Biggs	Lv. 7.30	1.00	4.00

Other common carriers now operating in this same territory, serving same points as applicants propose to serve are the Northern Electric Railway and Southern Pacific Company, protestants in this proceeding.

The combined schedule of the two companies on file with the commission show the following train service in effect between Marysville, Live Oak, Biggs and intermediate points.

North Bound.										
	N. E. Ry.—A.M.—	S. P. Co.—A.M.—	N. E. Ry.—A.M.—	N. E. Ry.—P.M.—	S. P. Co.—P.M.—	N. E. Ry.—P.M.—	N. E. Ry.—P.M.—	S. P. Co.—P.M.—	N. E. Ry.—P.M.—	S. P. Co.—A.M.—
Lv. Marysville-----	7.17	8.40	9.33	12.03	12.25	1.48	4.23	5.00	6.01	9.22
Lv. Live Oak-----	7.47	9.03	10.05	12.20	12.50	2.19	4.56	5.28	6.31	9.53
Lv. Gridley*-----	7.58	9.16	10.16	12.34	1.07	2.29	5.07	5.43	6.42	10.03
Ar. Biggs*-----	8.06	9.23	10.26	12.44	1.14	2.36	5.16	5.51	6.49	10.09
										10.24
										2.20

\*Northern Electric trains stop at East Gridley,  $1\frac{1}{2}$  miles from Gridley and East Biggs, 2 miles from Biggs, and not at Biggs or Gridley.

	South Bound.									
	S. P. Co.—A.M.—	N. E. Ry.—A.M.—	N. E. Ry.—A.M.—	N. E. Ry.—A.M.—	S. P. Co.—P.M.—	N. E. Ry.—P.M.—	N. E. Ry.—P.M.—	S. P. Co.—P.M.—	N. E. Ry.—P.M.—	S. P. Co.—A.M.—
Lv. Biggs -----	6.05	7.00	7.49	10.16	12.32	12.33	2.26	3.35	4.07	7.47
Lv. Gridley -----	6.11	7.05	7.58	10.24	12.39	12.43	2.34	3.42	4.14	7.53
Lv. Live Oak -----	6.20	7.14	8.08	10.35	12.50	12.55	2.43	3.55	4.24	8.03
Ar. Marysville -----	6.40	7.42	8.39	11.05	1.15	1.26	3.10	4.25	4.54	8.33

From the above schedules it will be noted that there are twelve trains per day between the points in question north bound and eleven south bound.

Applicants testified that they had consulted the hotel men of Biggs and Marysville and that they favored a new stage line. Practically no other testimony was presented by applicants bearing directly on the need of the public for the proposed service.

The mayor of the city of Marysville and the principal of Marysville High School, also a number of merchants, testified that Marysville and contiguous territory enjoys excellent transportation service at present and that in their opinion the proposed automobile service is not needed.

The commission being of the opinion that applicants have failed to show that public convenience and necessity require the operation of the proposed service the application will be denied.

#### ORDER.

J. II. Cook and George Demmer, partners in business under the fictitious name of Overland Stage Company, having applied to the Railroad Commission for an order declaring that public convenience and necessity require the operation by applicants of automobile stage service for the transportation of passengers between Marysville, Mari-gold and Hammonton, and between Marysville, Live Oak, Gridley and Biggs, and intermediate points, public hearings having been held, the matters having been submitted, and being now ready for decision, the Railroad Commission of the state of California hereby declares that public convenience and necessity do not require the operation by applicants of automobile stage service as requested in the above applications, therefore,

*It is hereby ordered* that said applications Nos. 3308 and 3309 be and they are hereby dismissed.

Dated at San Francisco, California, this twenty-seventh day of November, 1917.

## DECISION No. 4893.

IN THE MATTER OF THE APPLICATION OF GEORGE R. FELTON AUTO STAGE LINE FOR CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY TO OPERATE STAGE OR TRUCK SERVICE BETWEEN CAMP FREMONT, MENLO PARK AND REDWOOD CITY.

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Application No. 3348.

*Decided November 27, 1917.*

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BY THE COMMISSION.

**ORDER.**

George R. Felton having applied to the Railroad Commission for a certificate declaring that public convenience and necessity require the operation by him of an automobile service as a common carrier of passengers between Camp Fremont, Menlo Park and Redwood City, and the commission having made recent investigation of the transportation conditions existing between these points in Application No. 3327 of Walter J. Green, as shown by Decision No. 4861 of November 21, 1917, and it appearing to the commission that this is a case in which a public hearing is not necessary and that the application should be granted, the Railroad Commission of the state of California hereby declares that public convenience and necessity require the operation by the said George R. Felton of an automobile stage service as a common carrier of passengers between Camp Fremont, Menlo Park and Redwood City, provided, that this declaration shall not become effective until said George R. Felton has secured from the Railroad Commission a supplemental order herein reciting that he has filed certified copies of permits from the city of Redwood City and the county of San Mateo as required by section 3 of chapter 213, laws of 1917, and provided further, that the rights and privileges herein granted shall not be assigned or transferred unless the written consent of the Railroad Commission to such assignment or transfer has first been secured; and

*It is hereby ordered* that no vehicle may be operated under this certificate unless such vehicle is owned by the applicant herein or is leased by such applicant under a contract or agreement on a basis satisfactory to the Railroad Commission.

Dated at San Francisco, California, this twenty-seventh day of November, 1917.



## DECISION No. 4894.

IN THE MATTER OF THE APPLICATION OF C. D. JUDD FOR A CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY FOR THE OPERATION OF AN AUTOMOBILE FOR PASSENGER SERVICE BETWEEN THE CITY OF SACRAMENTO AND THE CITY OF DAVIS.

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Application No. 3292.

*Decided November 27, 1917.*

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Applicant granted a certificate permitting the operation of automobile service for the transportation of passengers between Sacramento and Davis, provided he secures all necessary permits from the public authorities of the territory through which he proposes to operate, and also provided that no machines shall be operated under such certificate except those owned by applicant or leased under contracts approved by the commission.

*Forrest A. Plant*, for Applicant.

*W. A. Latta*, for George Gentle, Protestant, and Star Auto Stage Association.

BY THE COMMISSION.

**OPINION.**

Applicant herein requests that the Railroad Commission make its order declaring that public convenience and necessity require the operation by him of automobile stage service as common carrier of passengers between Sacramento and Davis, a distance of 12½ miles.

A public hearing was held by Examiner Westover at Sacramento.

This territory is now being served by the Southern Pacific Company, George Gentle Stage line between Sacramento and Davis, Gray Bros., operating stages between Sacramento and Woodland, via Davis, and Joe Griffin, operating stages between Sacramento and Winters via Davis. All charge 35 cents one way fare, the fare applicant proposes to establish.

There is frequent service between the points in question, but none of the other carriers render service at the particular time proposed by applicant who is accommodating patrons that live in Davis and Swingle that go to Sacramento daily for business purposes.

Applicant has operated on his proposed schedule since about October 19. On Saturdays and Sundays he has made an extra trip not on schedule, but to suit the convenience of the public. For this additional service the 35-cent rate has been charged, when a full load offered.

During the time applicant has operated he has carried as few as 9 passengers per day and as many as 28, his average, including the extra trips, being 16 passengers per day.

Three passengers he carries to Sacramento regularly, 2 from Davis and 1 from Swingle Station, about 4 miles east of Davis.

These three passengers come to Sacramento daily to their business. Applicant's present schedule furnishes the only means of transportation they have of reaching Sacramento in time for business. These passengers have moved to Swingle and Davis in reliance upon applicant's service.

These three passengers frequently or usually return home from Sacramento via train or other stage line.

Representative of the other stage lines operating over this route expressed the belief that the traffic does not justify arranging an earlier trip to care for such business as might be developed.

Mr. Gentle carries on 5 days a week an average of 18 passengers per day and about 24 passengers per day on Saturdays and Sundays.

The stages from Woodland and Winters very frequently pass through Davis for Sacramento fully loaded. They do not cater to the local business, but naturally prefer the through business.

Mr. Gentle testified that he has on occasions failed to make some of his scheduled trips when his car was in the shop for repairs, although on other occasions to care for added passengers on Saturdays and Sundays he had hired extra cars for that purpose.

Applicant has not as yet secured permits from city of Sacramento and Davis nor from the county of Yolo as required by section 3, chapter 213, laws of 1917, but same have been applied for. The order herein will not become effective until the Railroad Commission has issued a supplemental order herein reciting that such permits have been secured.

It would appear that there is public necessity for this proposed service and the application will be granted subject to the conditions contained in the following order:

#### ORDER.

C. D. Judd having filed an application requesting that the Railroad Commission make its order declaring that public convenience and necessity require the operation by him of automobile stage service as common carrier of passengers between Sacramento and Davis, a public hearing having been held, the matter having been submitted and being now ready for decision, the Railroad Commission of the state of California hereby declares that public convenience and necessity require the operation by C. D. Judd of automobile stage service as common carrier of passengers between Sacramento and Davis, provided that this declaration shall not become effective until said C. D. Judd has secured from the Railroad Commission a supplemental order herein, reciting that he has filed certified copies of permits from the city of Sacramento and Davis and the county of Yolo, as required by section 3, chapter 213, laws of 1917, and provided further that the rights and

privileges herein granted shall not be assigned or transferred unless the written consent of the Railroad Commission to such assignment or transfer has first been secured; and

*It is hereby ordered* that no vehicle may be operated under this certificate unless such vehicle is owned by the applicant herein or is leased by such applicant under a contract or agreement on a basis satisfactory to the Railroad Commission.

Dated at San Francisco, California, this twenty-seventh day of November, 1917.

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DECISION No. 4895.

IN THE MATTER OF THE APPLICATION OF RUSSELL STAGE COMPANY  
FOR CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY  
TO OPERATE STAGE SERVICE BETWEEN CORONADO AND IMPE-  
RIAL BEACH AND SOUTH SAN DIEGO.

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Application No. 3329.

*Decided November 27, 1917.*

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BY THE COMMISSION.

**ORDER.**

M. L. Russell, doing business under the name of Russell Stage Company, having applied to the commission for a certificate declaring that public convenience and necessity require the operation by him of automobile stage service between Coronado, Imperial Beach, and South San Diego, all in San Diego County, and the commission having heretofore by Decision No. 3317 of May 8, 1916, authorized the San Diego and Southeastern Railway Company to discontinue service in the territory in question, and there being no other carriers now serving therein, and applicant having heretofore procured from the board of trustees of the city of Coronado and the board of supervisors of San Diego County permits required by chapter 213, laws of 1917, and it appearing to the commission that this is not a case in which a public hearing is necessary and that the application should be granted, it is hereby declared that public convenience and necessity require the operation by M. L. Russell of automobile stage service as common carrier of passengers between Coronado, Imperial Beach and South San Diego, provided that the rights and privileges herein granted shall not be assigned or transferred unless the written consent of the Railroad Commission to such assignment or transfer has first been secured; and

*It is hereby ordered* that no vehicle may be operated under this certificate unless such vehicle is owned by the applicant herein or is leased by such applicant under a contract or agreement on a basis satisfactory to the Railroad Commission.

Dated at San Francisco, California, this twenty-seventh day of November, 1917.

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DECISION No. 4896.

IN THE MATTER OF THE APPLICATION OF PLAZA STAGES, CONSISTING OF R. S. ANTHONY AND J. S. BOTHWELL, COPARTNERS, FOR CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY TO OPERATE A STAGE SERVICE BETWEEN SAN DIEGO AND CAMP KEARNY, CALIFORNIA.

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Application No. 3333.

*Decided November 27, 1917.*

BY THE COMMISSION.

**ORDER.**

Plaza Stages, a copartnership composed of R. S. Anthony and J. S. Bothwell, having applied to the Railroad Commission for certificate that public convenience and necessity require them to operate a passenger stage service between San Diego and Camp Kearny, and it appearing at the hearing upon Application No. 3229 as shown by Decision No. 4874 of November 24, 1917, that the public convenience and necessity require such service, and that it will be largely under military control, and under the circumstances no public hearing appearing to be necessary, the Railroad Commission hereby declares that public convenience and necessity require the operation by Plaza Stages, a copartnership composed of R. S. Anthony and J. S. Bothwell, as copartners, of an automobile stage service as a common carrier of passengers between San Diego and Camp Kearny, provided, that this declaration shall not become effective until said partnership has procured from the Railroad Commission a supplemental order herein reciting that it has filed certified copies of permits from the city of San Diego and the county of San Diego as required by chapter 213, laws of 1917, and provided further that the rights and privileges herein granted shall not be assigned or transferred unless the written consent of the Railroad Commission to such assignment or transfer has first been secured; and

*It is hereby ordered* that no vehicle may be operated under this certificate unless such vehicle is owned by the applicant herein or is leased by such applicant under a contract or agreement on a basis satisfactory to the Railroad Commission.

Dated at San Francisco, California, this twenty-seventh day of November, 1917.

## DECISION No. 4897.

IN THE MATTER OF THE APPLICATION OF SAN DIEGO AND ARIZONA RAILWAY COMPANY FOR PERMISSION TO PURCHASE AND HOLD ALL THE ISSUED CAPITAL STOCK OF THE SAN DIEGO AND SOUTH EASTERN RAILWAY COMPANY, AND TO ISSUE BONDS TO PAY FOR SAME, AND OF SAN DIEGO AND SOUTH EASTERN RAILWAY COMPANY TO SELL ITS PROPERTY TO SAN DIEGO AND ARIZONA RAILWAY COMPANY.

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Application No. 3328.

*Decided November 27, 1917.*

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1. A public utility subject to the jurisdiction of the Railroad Commission can not amend its mortgage so as to provide for an issue of 6 per cent bonds instead of 5 per cent bonds as originally provided for, until such amended mortgage has been submitted to and approved by the commission.
2. The commission will not finally approve the transfer of the properties of one railroad company to another until the purchasing company has submitted, for the approval of the commission, its plan of book entries relative to the purchase price of the properties transferred.
3. San Diego and South Eastern Railway authorized to transfer all of its physical assets, free of encumbrances, to the San Diego and Arizona Railway Company and the latter-named road authorized to purchase \$1,650,000.00 par value of outstanding stock of the South Eastern Railway and to issue \$1,500,000.00 face value of its 6 per cent bonds in payment therefor.

*Read G. Dilworth, for Applicants.*

*THELEN, Commissioner.*

**OPINION.**

In the amended petition herein, San Diego and Arizona Railway Company, hereinafter at times referred to as the San Diego and Arizona, asks authority to purchase the \$1,650,000.00 outstanding capital stock of San Diego and South Eastern Railway Company, hereinafter at times referred to as the San Diego and South Eastern, or to purchase the physical assets or both the physical assets and the outstanding capital stock of San Diego and South Eastern and to issue in payment for said capital stock and physical assets \$1,500,000.00 of its 6 per cent bonds. The San Diego and South Eastern joins in the amended petition herein.

A public hearing herein was held in Los Angeles on November 21, 1917.

The amended petition contemplates that the physical assets of the San Diego and South Eastern shall be transferred to the San Diego and Arizona as soon as practicable. The vendor company will issue no additional stock nor any bonds. After the transfer of its properties has been completed, the San Diego and South Eastern is to be dissolved.

San Diego and Arizona Railway Company was incorporated in 1906. It is engaged in constructing a line of railroad from San Diego to El Centro, Imperial County, California. A portion of the projected line passes through Mexico. This part of the line, extending from Tia Juana, on the international boundary line between the United States and Mexico to a station known as Lindero Station, is owned by the Tia Juana and Tecate Railway Company, organized under the laws of Mexico. All of the capital stock of the Mexican company is owned by the San Diego and Arizona. In conjunction with the Mexican company, San Diego and Arizona now operates from the city of San Diego to Tia Juana on the Mexican boundary line, from Lindero to a point about six miles east of Campo, and from Carriso Pass to Seeley, in Imperial County.

The San Diego and Arizona has an authorized capital stock issue of \$6,000,000.00 of common stock. Of this amount, \$2,000,000.00 is outstanding. The testimony shows that of the outstanding stock, \$1,000,000.00 par value is owned by J. D. and A. B. Spreckels Securities Company and \$1,000,000.00 by the Southern Pacific Company. Up to September 30, 1917, the San Diego and Arizona reports that the Southern Pacific Company had advanced to it, including interest, the sum of \$4645,179.46, while J. D. and A. B. Spreckels had advanced \$3,606,021.65. These amounts appear to have been expended for construction purposes. The testimony in this proceeding shows that the funds necessary to complete the railroad are now being advanced by the Southern Pacific Company and that the San Diego and Arizona hopes that its line of railroad between San Diego and El Centro, Imperial County, will have been completed by September, 1918.

The San Diego and South Eastern was incorporated March 2, 1912, for the purpose of taking over the properties of the San Diego and Cuyamaca Railway Company and of the San Diego and Southern Railway Company. The San Diego and South Eastern reports \$1,650,000.00 par value of capital stock outstanding. Of this amount, \$770,000.00 was issued in exchange for the properties of the San Diego and Cuyamaca and \$880,000.00 for the properties of the San Diego and Southern. Of the outstanding capital stock of the San Diego and South Eastern, \$439,900.00 is owned by R. C. Gillis and \$1,209,500.00 by J. D. and A. B. Spreckels Securities Company, the remaining \$600.00 being owned by directors for qualifying purposes.

In Exhibit No. 3, petitioners report the assets and liabilities of the San Diego and South Eastern, as shown by its books, as of September 30, 1917, as follows:

<i>Assets.</i>	
Investment in road and equipment-----	\$1,675,385 42
Miscellaneous physical property-----	55,023 67
Other investments -----	272 00
Cash -----	6,898 49
Loans and bills receivable -----	740 96
Miscellaneous accounts receivable-----	13,585 68
Storeroom, stationery and ticket stock-----	2,876 68
Rents and insurance paid in advance-----	1,605 01
Suspense items -----	8,661 71
Deficit -----	511,688 29
<hr/>	
Total assets -----	\$2,276,737 91
<i>Liabilities.</i>	
Capital stock outstanding-----	\$1,650,000 00
Notes payable -----	563,896 31
Accounts payable -----	15,859 53
Accrued depreciation -----	46,370 99
Unadjusted debit items -----	611 08
<hr/>	
Total liabilities -----	\$2,276,737 91

The San Diego and Arizona is willing to pay \$1,500,000.00 face value of its 6 per cent bonds for all of the outstanding capital stock of the San Diego and South Eastern or its assets or both its stock and assets free and clear of all indebtedness. The present stockholders of the San Diego and South Eastern have agreed to discharge all of the indebtedness of their company prior to the transfer of the stock or of the properties.

In Decision No. 1383, dated March 30, 1914 (Vol. 4, Opinions and Orders of the Railroad Commission of California, p. 539), the Railroad Commission found the reproduction cost of the operative properties of the San Diego and South Eastern as of June 30, 1912, to be not in excess of \$2,285,874.61 and the reproduction cost less depreciation to be \$1,912,754.20. The decision shows that the company reported the original cost of its properties as of June 30, 1912, at \$1,638,790.70. The San Diego and South Eastern now reports that from July 1, 1912, to September 30, 1917, because of flood damages, retirement of property and other causes, it deducted \$596,827.79 from its road and equipment account and that from July 1, 1912, to September 30, 1917, it expended for additions and betterments \$631,790.07. The net addition to its properties during this period is reported to be \$34,962 28.

Reference is here also made to Decision No. 786, dated July 10, 1913 (Vol. 3, Opinions and Orders of the Railroad Commission of California, p. 84), authorizing the San Diego and South Eastern to issue \$343,000.00 face value of bonds; to Decision No. 2971, dated December 11, 1915 (Vol. 8, Opinions and Orders of the Railroad Commission of California, p. 714), authorizing the San Diego and South Eastern to increase rates; and to Decision No. 3317, dated May 8, 1916 (Vol. 10, Opinions and Orders of the Railroad Commission of California, p. 38), relative to the reconstruction of the San Diego and South Eastern's lines subsequent to the floods of January, 1916. The San Diego and South Eastern has issued none of the \$343,000.00 of bonds and does not intend to do so.

In Exhibit No. 3, the revenues and expenses of the San Diego and South Eastern are reported as follows:



*San Diego and South Eastern Railway Company Income Account for Fiscal Years June 30, 1913-1917, Inclusive, and for Three Months Ending September 30, 1917.*

Item	1913	1914	1915	1916	1917	Three months, ending Sept. 30, 1917
Operating revenues -----	\$428,693 98	\$365,703 36	\$305,433 42	\$222,936 82	\$125,859 64	\$42,023 20
Operating expenses -----	877,819 97	340,094 52	350,111 77	277,526 14	206,205 37	32,614 93
Net operating revenues -----	\$50,874 01	\$25,608 84	*\$44,678 35	*\$4,589 32	*\$80,345 73	\$9,408 27
Other income -----	4,620 96	4,767 70	4,806 47	5,774 49	23,839 25	6,069 45
Gross income less operating expenses -----	\$55,494 97	\$30,376 54	*\$39,871 88	*\$10,363 81	*\$104,184 98	\$15,477 72
Deductions--						
Railway taxes -----	\$16,500 00	\$21,125 10	\$19,657 52	\$19,292 33	\$16,646 17	\$2,247 63
Rent of equipment -----	7,455 88	2,016 24	2,329 84	2,567 02	4,569 37	1,175 42
Joint facility rents -----	2,017 80	2,074 62	2,513 38	3,532 25	1,124 25	175 15
Interest on unfunded debt -----	5,972 06	13,400 10	21,833 52	23,438 97	28,485 85	7,974 13
Miscellaneous -----	66 00	103 00	81 07	123 20	1,234 41	479 01
Total deductions -----	\$22,011 74	\$38,719 06	\$46,415 33	\$48,953 77	\$52,090 05	\$12,051 34
Net income -----	\$23,483 23	*\$8,282 52	*\$6,287 21	*\$97,768 60	*\$108,565 53	\$3,426 38
*Loss.						

The preceding table shows that the operating revenues of the San Diego and South Eastern decreased from \$428,693.98 for the year ending June 30, 1913, to \$125,859.64 for the year ending June 30, 1917. For the three months ending September 30, 1917, the operating revenues of the company are reported at \$42,023.20. The decrease in the company's earnings from 1913 to 1917 is attributed to the damage to orchards by frost in 1913; to jitney and motor truck competition; and to the floods of January, 1916.

The testimony in this proceeding shows that the orchards in the territory served by the lines of the San Diego and South Eastern have almost recovered from the frost of 1913; that the jitney and motor truck competition has to a large extent been eliminated through the enactment of ordinances by cities traversed by the lines of the San Diego and South Eastern; that the company's line has been rebuilt to Foster; that to secure traffic from the back country beyond Foster the company has acquired the existing motor trucks operating in that territory; and that by the acquisition of gas-electric cars, as heretofore recommended by this commission, it has reduced the cost of operation on its eastern division from \$1.00 per car mile to 20 cents per car mile.

John D. Spreckels, William Clayton and E. J. Burns, appearing on behalf of the San Diego and South Eastern, testified that the earnings for the three months ending September 30, 1917, may be considered normal, and that the earnings of the company and the revival of business justify the sale of the properties for \$1,500,000.00 face value of 6 per cent bonds. William Clayton, vice president and managing director of the San Diego and South Eastern, testified that The Atchison, Topeka and Santa Fe Railway Company has threatened to build into the territory now being served by his company, and that the Spreckels interests are not in a position to successfully meet the Santa Fe competition. He testified that it will be beneficial to San Diego and vicinity if this consolidation is authorized and if the Southern Pacific, through the ownership of a one-half interest in the San Diego and Arizona, is thereby given a firm foothold in San Diego County. He believes that competition between the Santa Fe and the Southern Pacific will result in larger benefits to the shippers than competition between the Santa Fe and the San Diego and South Eastern.

Paul Shoup, representing the interest of the Southern Pacific Company in the San Diego and Arizona, testified that he had made a careful independent investigation into the business of the San Diego and South Eastern and that as a result of this investigation he was convinced that the San Diego and Arizona is justified in paying \$1,500,000.00 in 6 per cent bonds for the properties of the San Diego and South Eastern. The San Diego and Arizona looks upon the San

Diego and South Eastern's lines as valuable feeders. Mr. Shoup testified that the San Diego and Arizona has no intention to ask for an increase in rates on the San Diego and South Eastern's lines if this application is granted.

Heretofore the Railroad Commission authorized the San Diego and Arizona to execute a mortgage to secure the payment of \$25,000,000.00 of 5 per cent forty-year bonds. It is now the intention of the company to modify this mortgage so as to provide for an issue of 6 per cent bonds. The mortgage may also be modified in other particulars. Obviously until such time as the company has submitted to the commission a copy of its amended mortgage and has secured authorization from the commission to execute the same, no final order can be given in this proceeding.

Neither do I believe that the order herein should become effective until the commission has approved the book entries relative to the transfer of the properties herein authorized. These properties should be taken on the books of the San Diego and Arizona at \$1,500,000.00, the purchase price. Obviously all of the books and records of the San Diego and South Eastern should be turned over and delivered to the San Diego and Arizona.

I recommend that this application be granted, subject to the conditions contained in the following form of order:

#### ORDER.

San Diego and Arizona Railway Company having applied to the Railroad Commission for authority to purchase the \$1,650,000.00 par value of outstanding capital stock of the San Diego and South Eastern Railway Company, or its physical assets, or both its physical assets and outstanding capital stock and to issue in payment therefor \$1,500,000.00 face value of its 6 per cent bonds, the San Diego and South Eastern Railway Company having asked authority to sell its properties to San Diego and Arizona Railway Company, a public hearing having been held and it appearing to the Railroad Commission that the money, property or labor to be procured or paid for by the issue of said bonds is reasonably required for the purpose specified in the order, and that the purpose for which the proceeds of the bonds may be expended is not in whole or in part reasonably chargeable to operating expenses or income.

*It is hereby ordered* that San Diego and South Eastern Railway Company be and it is hereby granted authority to sell and transfer all of its physical assets free and clear of all indebtedness to San Diego and Arizona Railway Company.

*It is hereby further ordered* that San Diego and Arizona Railway Company be and it is hereby granted authority to purchase the

\$1,650,000.00 par value of outstanding capital stock of the San Diego and South Eastern Railway Company, or its physical assets, or both its physical assets and its outstanding stock, and to issue in full payment thereof \$1,500,000.00 of 6 per cent bonds at their face value, upon the following conditions and not otherwise:

1. The authority herein granted to issue bonds shall not become effective until San Diego and Arizona Railway Company has submitted to the Railroad Commission a copy of its amended mortgage or deed of trust, and has secured from the Railroad Commission an order authorizing the execution of said amended mortgage or deed of trust.

2. The authority herein granted shall not become effective until the Railroad Commission has approved the book entries relating to the transfer of the capital stock and properties herein authorized to be sold and transferred.

3. The consideration given for the public utility property herein authorized to be transferred shall not be taken before the Railroad Commission, or any other public body, as representing, for rate fixing or other purposes, the value of the property transferred.

4. San Diego and Arizona Railway Company shall, within thirty days after the conveyance of the public utility property herein authorized to be made, file with the Railroad Commission a certified copy of the deed by which said property is conveyed and within thirty days after the issue of the bonds herein authorized the company shall file with the Railroad Commission a verified report of such issue as required by General Order No. 24, which order in so far as applicable is made a part of this order.

5. The authority herein granted to issue bonds shall not become effective until San Diego and Arizona Railway Company has paid the fee prescribed by the Public Utilities Act.

6. The authority herein granted to convey public utility property and to issue bonds shall apply only to such public utility property as is conveyed and to such bonds as are issued on or before July 1, 1918.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the state of California.

Dated at San Francisco, California, this twenty-seventh day of November, 1917,

DECISION No. 4898.  
NAVARRO LUMBER COMPANY  
*vs.*  
NORTHWESTERN PACIFIC RAILROAD COMPANY.

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Case No. 1147.

*Decided November 27, 1917.*

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The Railroad Commission has no jurisdiction to compel a railroad company to operate vessels for the transportation of freight when the railroad in question is not now engaged in transportation of such a nature, irrespective of the fact that complainant holds a contract entered into by the railroad company whereby the railroad agreed to transport lumber of complainant to various points by vessel and several shipments were moved, though not within the last few years. It is held that the courts and not this commission are the proper bodies to interpret such contract; complaint dismissed.

*Sanborn & Roehl*, for Complainant.

*Stanley Moore*, for Defendant.

*George D. Squires* and *Elmer Westlake*, for Southern Pacific Company and Albion Lumber Company.

LOVELAND, *Commissioner*.

**OPINION.**

In this proceeding Navarro Lumber Company asks the Railroad Commission to require the Northwestern Pacific Railroad Company to place in service a vessel for the transportation of freight between Albion, Mendocino County, and San Francisco, and between Albion and southern California points, in accordance with the terms of a certain contract executed on May 17, 1907, between the Stearns Lumber Company, a predecessor of the complainant, and Northwestern Pacific Railroad Company, and to establish just and reasonable rates for such transportation. The defendant has filed a motion to dismiss the complaint on the ground that it is not engaged in any such ocean transportation as is contemplated in the complaint, and that accordingly the relief requested is beyond the jurisdiction of the Railroad Commission to grant.

The contract referred to in the complaint relates to the through shipment by rail and water from Wendling to San Francisco and southern California points, of the products of the mills of Stearns Lumber Company. Shipments were made under this contract with certain modifications from time to time until January 1, 1914. Since that time no shipments have been made thereunder, and apparently it is only recently that complainant has attempted to assert any rights thereunder.

The complaint is based entirely upon this contract and is, in effect, an attempt through this commission to obtain a specific performance of the same. I do not believe that under the circumstances surrounding this case this contract establishes any public undertaking on the part of defendant to, at this time, enter into ocean transportation business. I believe that complainant's remedy, if any, on the contract is a matter for the courts, and not for this commission. I am, accordingly, of the opinion that defendant's motion to dismiss the complaint is proper and should be granted, and submit the following form of order:

**ORDER.**

This case having come on regularly for hearing and the defendant having filed a motion to dismiss the complaint for lack of jurisdiction, and the Railroad Commission finding that the same is well founded,

*It is hereby ordered* that the complaint herein be and the same is hereby dismissed.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the state of California.

Dated at San Francisco, California, this twenty-seventh day of November, 1917.

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DECISION No. 4899.

MILES P. LANE ET AL.

vs.

SANTA BARBARA TELEPHONE COMPANY.

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Case No. 1139.

*Decided November 27, 1917.*

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The service to consumers in territory adjacent to the city of Santa Barbara, served through the Santa Barbara exchange of defendant, having been found to be poor and unsatisfactory, defendant is directed to take immediate steps for the betterment thereof and to report to the commission within thirty days what action has been taken along such lines.

*Francis Price*, for Complainants.

*G. B. Bush*, for Defendant.

*GORDON*, Commissioner.

**OPINION.**

On October 2, 1916, the Railroad Commission made and filed its order, Decision No. 3747, in Application No. 2265, authorizing Santa Barbara Telephone Company, defendant in this proceeding, to acquire and operate, under certain conditions, the telephone systems theretofore owned and operated in the city of Santa Barbara and in other portions

of Santa Barbara County by The Pacific Telephone and Telegraph Company, Home Telephone and Telegraph Company of Santa Barbara, and Home Telephone and Telegraph Company of Santa Barbara County, Opinions and Orders of the Railroad Commission of California, Volume 11, page 470 *et seq.* On November 6, 1916, its supplemental order, Decision No. 3856, was rendered declaring that all matters specified as conditions precedent in the order in Decision No. 3747, have been performed to the satisfaction of the Railroad Commission, and permitting Santa Barbara Telephone Company, among other things, to make effective the rates, rules and regulations heretofore filed by said company with the Railroad Commission, Opinions and Orders of the Railroad Commission, Volume 11, page 947 *et seq.*

The complaint herein calls into question the reasonableness of defendant's rates in the Hope School District, a section which is situated between Santa Barbara and the town of Goleta, and which receives its telephone service from defendant's Santa Barbara exchange. It alleges that the rates charged complainants are in excess of the rates charged in other localities for like service and cost of maintenance. At the hearing which was held on October 25, 1917, the complaint was amended to include the matter of unsatisfactory service. Complainants ask that the rates be reduced to those formerly charged by Home Telephone and Telegraph Company.

Complainants urge that the location of Hope School District is such that rates as favorable as those now in effect at Goleta and Montecito, localities which are also contiguous to Santa Barbara, should be allowed in said district. Defendant has filed its answer to the complaint denying that its rates are unreasonable.

As stated above, telephone service in Hope School District is provided from defendant's Santa Barbara exchange. Accordingly, the rates which defendant has been authorized by the Railroad Commission to make effective for this exchange are applicable within the district in which complainants reside, and, since this district is outside of what is defined as the Santa Barbara primary rate area, mileage rates based upon the patron's location are exacted in addition to base rates for one-two- and four-party service. The rates charged patrons receiving service from Goleta and Montecito exchanges are identically the same as those charged patrons of the Santa Barbara exchange, except that the primary rate area of each exchange is not the same in extent. The amount of mileage charges which are applicable for the same classes of service at each exchange, however, are the same for similar distances beyond the primary rate area. Complainants presented no evidence showing that the rates in question are excessive.

As to the matter of unsatisfactory service, this issue was not presented prior to the date of the hearing of this complaint and the commission has made no investigation to satisfy itself as to conditions. It is apparent, however, according to the testimony, that service within Hope School District is inferior, due largely to operating methods and to operating delays and errors, and should be improved. Mr. G. B. Bush, president of Santa Barbara Telephone Company, testified that since defendant has acquired and consolidated the telephone systems of its predecessors' constant attention has been given to improving the service and assured prompt correction of conditions which have given rise to complaints as to unsatisfactory service by complainants.

The following order is submitted:

#### ORDER.

Complaint having been filed with the Railroad Commission by *Miles P. Lane et al.*, complainants, vs. *Santa Barbara Telephone Company*, defendant, calling into question the reasonableness of defendant's rates within Hope School District, and alleging that the service in certain respects is unsatisfactory, and a public hearing having been held, and it appearing to the Railroad Commission, as set forth in the foregoing opinion, that the rates in question herein are not unreasonable and excessive; and it further appearing to the Railroad Commission that defendant, Santa Barbara Telephone Company, should apply such remedy as may be necessary to satisfactorily improve complainants' service,

*It is hereby ordered* that defendant herein, Santa Barbara Telephone Company, shall immediately make such change or changes in its present methods of operating as may be necessary to correct delays and errors in receiving and completing local calls for complainants, and shall within thirty days from the effective date of this order file with the Railroad Commission a statement setting forth in detail such changes as may have been made in its present operating methods for the purpose of correcting the operating difficulties hereinabove specified.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the state of California.

Dated at San Francisco, California, this twenty-seventh day of November, 1917.



## DECISION No. 4900.

IN THE MATTER OF THE APPLICATION OF SAN JOSE WATER WORKS TO BUY, AND OF J. D. FARWELL TO SELL, THE WATER SYSTEM OF J. D. FARWELL; AND OF SAN JOSE WATER WORKS FOR AN ORDER FIXING RATES TO BE CHARGED BY IT ON ITS NEW "HIGH LINE" TO BE BUILT BY IT, AND FOR RULES AND REGULATIONS CONCERNING THE SAME.

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Application No. 2892.

*Decided November 27, 1917.*

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A utility which installs an exceptionally expensive service such as a high pipe line for the purpose of serving consumers along a ridge of hills, is entitled to higher rates from consumers served from such line than it receives from other consumers on its system for the reason that such service is of greater value and given at greater cost than the usual service.

Application of San Jose Water Company to establish a higher schedule of rates along what is known as its "high line" than is charged other consumers on its system, granted, and it is also directed to file, for the approval of the commission, rules governing the installation and payment for pressure regulators and the collection of a minimum irrespective of whether water is used or not.

*S. F. Leib*, for Applicant.

BY THE COMMISSION.

**SUPPLEMENTAL OPINION.**

San Jose Water Works applies for authority to charge specified rates for water served for domestic purposes upon the high ridge between Saratoga and Los Gatos in Santa Clara County through its new high line, to require patrons to advance the cost of installing pressure regulators to be returned to them in rates, and to provide that where service is through private streets or rights of way the service connection to be supplied by the utility need not exceed 10 feet in length. The reasons given for constructing the high line are to develop new business and to provide a secondary source of water supply for petitioner's Saratoga system.

Public hearings herein were held by Examiner Westover at San Jose and Saratoga.

On August 30, 1917, in Decision No. 4600, this commission authorized J. D. Farwell, one of the applicants herein, to convey to San Jose Water Works a small water system owned by him, said water system having for a number of years past supplied a portion of the territory now reached by the proposed extension, decision relative to rates, rules and regulations governing the sale of water to consumers of this extension being reserved, however, until later date and pending further investigation. The commission having completed its investigation, these matters are now ready for determination.

Applicant serves the cities of San Jose, Los Gatos and Saratoga under the same rates, rules and regulations. The territory which it proposes

to serve by its new high line is a series of wooded ridges overlooking the Santa Clara Valley and well adapted to country homes and estates and considerably in demand for such purposes, but at present sparsely settled, without water service, and apt to build up slowly and never thickly.

The rates which applicant wishes to establish on its high line are higher and its rules and regulations which it seeks to establish are more onerous than those in effect upon its other systems. It urges that as it is pioneering and developing new territory, and has no chance for earning a return upon its investment except through increase in water business, it should be given a rate which will reduce its losses during the period of development.

The estimated cost of the high line being installed at the time of the first hearing was \$41,740.00 without certain reservoirs which applicant plans to add to the system in the future. Its experience in installing the high line indicates that it will cost approximately the amount of the estimate.

The estimated gross revenue which may hereafter be expected from new business during the first year at the rates requested is about \$36.00 per month, including that derived from the three to six patrons formerly served by J. D. Farwell, whose pipe lines it purchased under authority contained in Decision No. 4600 of August 30, 1917. These patrons formerly paid to Mr. Farwell rates considerably higher than those which applicant now seeks to establish on its high line. Applicant has transferred to the new high line its 14 patrons on Oak street, Saratoga, where pressure was formerly poor, and has made an extension from it to certain patrons who can be served only through the high line, they guaranteeing a gross income for five years from that extension of \$150.00 per year. (See Decision No. 4748 of October 11, 1917.) This guaranty is based on the cost of the extension, and will probably not directly affect the return on the investment in the high line. The rates which it wishes to establish on the high line are higher than those which the Oak street patrons have been paying. It appears from the testimony that the people in the territory to be served do not object to paying the rates proposed, with the exception of one man who is now served through the Oak street line and whose rate would be increased. His position is that he is now paying a fair rate and is entitled to adequate service.

A question which naturally arises in connection with this application is whether the applicant should be permitted to charge a higher rate for this high line service than its present San Jose rates. We have several times held that a utility can not fairly expect each branch or department of its service to prove independently remunerative. The adequacy of a rate should generally be tested by the earnings which it produces from the entire system. Under the facts in this case should applicant's San Jose, Saratoga and high line systems be treated as

parts of the same system, but with some parts remunerative and other parts unremunerative; or as a group of independent properties owned by the same stockholders but separately operated?

Applicant's main gravity water supply is derived from the hills southwest of San Jose where water is impounded in a series of reservoirs and transmitted through Los Gatos by pipes to San Jose, where its gravity supply is supplemented by pumps. There is also a small pumping plant at Los Gatos to lift gravity water to the higher parts of the town.

Saratoga lies several miles to the northwest of Los Gatos and is supplied by water from Saratoga reservoir which is fed by Saratoga Creek. Prior to the construction of the high line, the Saratoga system was entirely separate from the San Jose-Los Gatos system. An auxiliary water supply for the Los Gatos system originates at Beckwith Springs and was conducted into Mountain Springs reservoir and thence to the distributing system in Los Gatos. The high line diverts this supply from a point above Mountain Springs reservoir. The surplus, after the high line is supplied, goes into the Los Gatos system.

Applicant still operates its Saratoga system with its separate water supply independently. Its new high line and its San Jose-Los Gatos system are operated as two independent systems except that the surplus water from Beckwith Springs goes into the Los Gatos system. There is a physical connection at the northerly end of the high line with the Saratoga system, and at its southerly end with the Beckwith Springs pipe line. The gate valves at these points are kept closed. The high line supply could be used as an auxiliary supply for Saratoga and Los Gatos if desired by using proper pressure regulators, but high line water has not been so used.

Applicant's property, including the Saratoga system, was under consideration by the commission in the case of *Monahan vs. San Jose Water Company*, in Decision No. 1515 of May 18, 1914 (Vol. 4, Opinions and Orders of the Railroad Commission, p. 1101). In that case the commission's engineers found the estimated reproduction cost new less depreciation to be \$1,639,527.00 for the entire property. The annual reports of applicant and its predecessor show net operating revenue for 1914, 1915 and 1916 of \$88,646.80, \$93,927.23 and \$103,374.58, respectively. Without considering extensions and improvements added since the above appraisal in 1914, or the high line built in 1917, the net operating revenue represents about 5½ per cent to 6½ per cent upon the appraisal, as found by the commission's engineers.

We conclude that for the purposes of the present application the high line is a distinct and separate system, and one on which different rates from those in force in San Jose, Los Gatos and Saratoga may

properly be applied. The service along the high line is of greater value and greater cost to supply, and the rates may properly be higher.

Applicant's present minimum rate in force in San Jose is 90 cents for 4,000 gallons of water. The rates which it wishes to establish in its "high line" territory are those found in the order herein, except that applicant proposed a minimum of \$1.50 for 4,000 gallons of water and for lawns and sewer flushing.

Provisions relating to payments for pressure regulators, extension through private rights of way and payments of minima where water is not used may be covered by rules and regulations to be submitted with the schedule of rates for the approval of the commission before filing. As patrons on the Oak street line are receiving an improved service and the group of patrons now being served by an extension of that line could not be served from the Saratoga system because their homes are located above the Saratoga reservoir, patrons on the Oak street line should pay the high line rates.

#### ORDER.

San Jose Water Works having applied to the Railroad Commission for authority to establish special rates, rules and regulations governing the service of water along its new so-called "high line" between Saratoga and Los Gatos, in Santa Clara County, and public hearings having been held thereon and the commission being now fully advised,

It is hereby found as a fact by the Railroad Commission of the state of California that the rates set forth in this order are just and reasonable rates to be charged by applicant to its patrons along its said "high line," and basing its order on the foregoing finding of fact and the further findings of facts contained in the opinion preceding this order,

*It is hereby ordered* that applicant be and it is hereby authorized to file with the commission the schedule of rates shown below and to submit for the approval of the commission rules and regulations governing extensions in private property, installation and payment for pressure regulators and collection of monthly minimum charges whether water is used or not, all of said rules and regulations to apply to patrons in the territory served by applicant's said "high line."

#### *Meter Rates.*

##### **No. 1.**

#### **COMMERCIAL.**

**Monthly minimum for 3,000 gallons or less, \$1.00.**

**Between 3,000 and 10,000 gallons, 25 cents for each 1,000 gallons**

**Between 10,000 and 100,000 gallons, 20 cents for each 1,000 gallons.**

**Above 100,000 gallons, 15 cents for each 1,000 gallons.**

## No. 2.

Rates for meters larger than  $\frac{3}{4}$  inch, as follows:

1 inch -----	\$2 00 minimum
1 $\frac{1}{2}$ inch -----	2 50 minimum
2 inch -----	3 00 minimum

For these minimums the consumers are allowed \$2.00, \$2.50 and \$3.00 worth of water respectively at above rates.

## No. 3.

## MUNICIPAL AND COUNTY.

Schools and other governmental department buildings at commercial rates.

## No. 4.

Parks and lawns—each meter minimum monthly, \$1.00.  
All water used, 15 cents per thousand gallons.

## No. 5.

Sprinkling—measured by tanks and record by county—15 cents per thousand gallons.

## No. 6.

Sewer flushing—each meter minimum monthly—\$1.00.  
All water used, 15 cents per thousand gallons.

Dated at San Francisco, California, this twenty-seventh day of November, 1917.

## DECISION No. 4901.

IN THE MATTER OF THE APPLICATION OF GRANGERS BUSINESS ASSOCIATION, CALIFORNIA WHARF AND WAREHOUSE COMPANY AND PORT COSTA WAREHOUSE AND DOCK COMPANY FOR AUTHORITY TO INCREASE AND ADJUST WAREHOUSE RATES AT THEIR RESPECTIVE WAREHOUSES LOCATED AT PORT COSTA.

Applications Nos. 3098, 3099, 3100.

*Decided November 27, 1917.*

Applicants, operating warehouses for the storage of grain at Port Costa, apply for and are granted permission to put into effect an increased rate for the storage and handling of grain and also for the dockage and toll charges received from ships loading or unloading at their wharves.

*Sanborn & Roehl*, by *H. H. Sanborn*, for Applicants.

BY THE COMMISSION.

## OPINION.

Grangers Business Association, California Wharf and Warehouse Company and Port Costa Warehouse and Dock Company apply for authority to increase and adjust rates charged for storage and service at petitioners' respective warehouses, located on the south side of

Carquinez Straits near the town of Port Costa. In support of the applications they allege increases in the cost of labor and supplies.

A public hearing upon these applications was held by Examiner Westover in San Francisco where applicants' patrons representing about 90 per cent of the storage are engaged in business. The usual publicity was given by mailing notices to interested parties, but no one appeared at the hearing to oppose the establishment of the rates requested. By stipulation the applications were consolidated for hearing and decision.

The following table shows in parallel columns the present rate, the proposed rate and the resulting increase as to each of the principal items covered by this opinion as to which applicant asks an increase:

Storage of grain.	Present. (Rates in cents per ton).	Proposed. in cents per ton).	Increase.
One month -----	50	50	--
Two months -----	50	75	25
Three months -----	75	\$1.00	25
Season -----	\$1.00	\$1.00	--
Loading cars -----	20	25	5
Weighing and delivering to ship from dock or warehouse within twenty days after dumping -----	30	35	5

Each of the warehouses in question is built upon piling extending into deep water, permitting direct loading from warehouses to ocean-going vessels. For years the principal business of each of the applicants has been the handling and storing of grain for export shipment. The approximate capacity of the warehouses is as follows:

Grangers Business Association, 35,000 tons.

California Wharf and Warehouse Company, 30,000 tons.

Port Costa Dock and Warehouse Company, 60,000 tons.

Ordinarily about 90 per cent of the grain stored is barley, the balance being largely wheat, with smaller quantities of oats. Under normal shipping conditions 90 per cent of the grain moves out by water for exportation to Europe. The principal patrons of these warehouses are San Francisco grain exporters. For years the custom of the export business has been to buy grain stored in interior California warehouses and later assemble it in lots in the warehouses at Port Costa preparatory to exportation. The result has been that grain moved actively through these warehouses, very little being stored for the season.

The present shipping situations have entirely changed the export grain movement. Owing to the difficulty of procuring vessels for shipment from Pacific ports most of this grain is now moving east by all-rail routes to Atlantic and Gulf ports where it is reshipped to Europe. The extent to which this is true appears concretely from the following table showing the total amount of barley in storage at all

Port Costa warehouses on September 1 in each of the last three years. A comparison of amounts stored on dates earlier in the three respective seasons shows equally marked differences.

*Barley in Storage at Port Costa.*

September 1, 1915	-----	69,330 tons
September 1, 1916	-----	59,976 tons
September 1, 1917	-----	11,536 tons

Though the present situation is abnormal, in the opinion of the managers of these warehouses it is not temporary; they express the opinion that the extreme shortage of ocean carriers will probably continue for some time after the end of the present European war.

Applicants estimate that under normal conditions existing in the past about one-half of the grain stored remained on storage thirty days or less and the remainder an average of sixty to ninety days.

All of the applicants have paid the same uniform rates for labor practically all the time. In 1914, at the time the present schedules of rates were filed, applicants paid 35 cents per hour for labor and on July 1, 1916, this rate was advanced to 40 cents per hour and on July 1, 1917, to 50 cents per hour, the present rate. The total increase is over 42 per cent.

The total amount of grain handled by applicants through their Port Costa warehouses for the last three years with the cost per ton for handling, as appears from tabulations submitted by them, is shown in the following table:

	Tons.	1914. Cost per ton.	Tons.	1915. Cost per ton.	Tons.	1916. Cost per ton.
Grangers Business Association-----	115,403	.57	89,195	.73	78,721	.85
California Wharf and Warehouse Com- pany -----	47,300	.95	104,100	.73	108,900	.68
Port Costa Warehouse and Dock Com. pany -----	131,358	.85	148,209	.90	65,342	1.21

The figures are for the calendar year, except in the case of California Wharf and Warehouse Company, whose figures are for the fiscal year ending May 31. The costs include labor, superintendence and depreciation, but they also include costs of cleaning and grading grain, a large and profitable part of the business of each applicant. This is a service which is rendered in preparing grain for export, especially, is not generally performed by grain storage warehouses, and in these proceedings will not be treated as a part of usual warehouse service. It will, therefore, be necessary to separate the cost of cleaning and grading from the cost of the customary warehouse service, as far as possible. The records of California Wharf and Warehouse Company and Port Costa Warehouse and Dock Company have been kept so that such a segregation can be made with a fair degree of accuracy, but this can not

be determined from the records of Grangers Business Association. Excluding any allowance for depreciation, the net earnings of the two former applicants from all sources are shown by Table No. I, appearing below, and the proportion which storage business bears to applicants' total business is shown in Table No. II.

TABLE No. I. (All Sources.)

*California Wharf and Warehouse Company.*

	1914.	1915.	1916.	1917.
Receipts -----	\$43,338 76	\$90,978 04	\$99,942 43	\$65,904 00
Expenses -----	38,771 88	69,394 45	67,553 96	61,448 77
Net -----	\$4,566 88	\$21,583 59	\$32,388 47	\$4,455 32

*Port Costa Warehouse and Dock Company.*

Receipts -----	\$120,479 92	\$136,633 92	\$85,356 37	*
Expenses -----	105,004 77	124,116 48	71,088 07	*
Net -----	\$15,475 15	\$12,517 44	\$14,268 30	

\*Not available.

TABLE No. II. (Storage Only.)

*California Wharf and Warehouse Company.*

	1914.	1915.	1916.	1917.
Storage receipts -----	\$19,502 44	\$40,940 12	\$44,974 09	\$29,656 84
Storage expenses -----	18,764 74	33,485 92	32,798 49	31,732 82
Net -----	\$737 70	\$7,454 20	\$12,175 60	*\$2,075 98

*Port Costa Warehouse and Dock Company.*

Storage receipts -----	\$55,583 77	\$46,634 58	\$50,152 74	
Storage expenses -----	66,141 54	66,284 20	40,868 00	
Net -----	\$10,557 77*	\$19,649 62*	\$9,284 74	

\*Loss.

The commission's engineers prepared rough appraisals of the properties herein involved, based upon estimated reproduction cost less depreciation. These are shown below in comparison with the book values of the respective companies as carried in their records.

	Appraisals by commissioner's engineers.	Book value of warehouse property.
Grangers Business Association-----	\$235,019 26	\$295,000 00
California Wharf and Warehouse Company-----	160,700 00	212,300 00
Port Costa Warehouse and Dock Company-----	279,179 80	350,000 00

The differences here shown become relatively unimportant when, as appears from the testimony, the increased cost of operations over previous years are now (1917) more than sufficient to offset all apparent net operating revenue shown in petitioners' annual reports heretofore filed with the Railroad Commission.



Applicants estimate that ordinarily about one-half of the grain received at Port Costa for exportation (being 90 per cent of the entire amount) remains in storage over thirty days, but not over three months, and would, therefore, take the increased rate of 25 cents per ton proposed for this period. If we accept this estimate and assume that future yearly tonnage will equal that shown to have been handled through these warehouses during the season 1915-16, applicants' increased revenue resulting from storage under the proposed rates would be approximately—

Grangers Business Association.....	\$8,856 00
California Wharf and Warehouse Company.....	12,251 00
Port Costa Warehouse and Dock Company.....	7,351 00

This increased revenue would not be sufficient, however, to cover the 42 per cent increase in the cost of labor necessary to handle similar tonnage at the present time. According to applicants' estimates, grain tonnage received at Port Costa during the current season will not exceed 50 per cent of the least remunerative storage year experienced by them since filing their rate schedules in 1912.

The conditions shown by the testimony justify the increases sought, and the application should be granted. Besides the storage rates already discussed, applicants asked certain increases and adjustments in rates for other warehouse services which are found in the order.

#### ORDER.

Grangers Business Association, California Wharf and Warehouse Company, and Port Costa Warehouse and Dock Company, each having applied to the Railroad Commission for authority to increase and adjust warehouse rates applicable at their respective warehouses located at Port Costa, and a public hearing having been held thereon, and the matter having been submitted, and being now ready for decision, the Railroad Commission hereby finds as a fact that the rates now charged by petitioners for warehouse service at Port Costa are unreasonable in so far as they differ from the rates herein established for the classes of service indicated, and that the rates herein established are just and reasonable rates.

Basing its order on the foregoing findings of fact and on the other findings which are contained in the opinion preceding this order,

*It is hereby ordered* that Grangers Business Association, California, Wharf and Warehouse Company and Port Costa Warehouse and Dock Company be and they are hereby authorized to publish, file with the Railroad Commission and thereafter collect, the following schedule of

rates at their respective warehouses located on the straits of Carquinez, near the town of Port Costa, to wit:

*Warehouse Charges.*

GRAIN.

**Storing.**

For 30 days or less .....	\$0.50	per ton
For 60 days or any fraction over 30 days.....	.75	per ton
For any period over 60 days to include May 31, following.....	1.00	per ton
Weighing and loading into cars .....	.25	per ton
<b>Weighing and delivering to ship.</b>		
Direct from car or craft .....	.25	per ton
Direct from warehouse .....	.20	per ton
From dump (in warehouse or on dock) if loaded within two days..	.35	per ton
From cleaner or grader dumps .....	.20	per ton
Weighing or repiling option lot.....	.25	per ton
Reweighing at owner's request .....	.10	per ton

SCREENINGS AND REJECTIONS.

Weighing rejections without additional service.....	.10	per ton
Weighing screenings .....	.15	per ton
Weighing and piling screenings ex-grader.....	.25	per ton
Weighing and loading screenings into cars.....	.30	per ton

DOCKAGE.

**When discharging cargo.**

Vessels of 200 tons register or less.....	4.00	per ton
For each additional ton register over 200.....	.00 $\frac{1}{2}$	per ton

**When loading cargo.**

Vessels of 200 tons register or less.....	2.00	per ton
For each additional ton register over 200.....	.00 $\frac{1}{2}$	per ton

*Tolls.*

**Grain delivered from craft to ship at dock.**

Without warehouse service .....	.10	per ton
Including weighing .....	.25	per ton

Dated at San Francisco, California, this twenty-seventh day of November, 1917.

DECISION No. 4902.

IN THE MATTER OF THE APPLICATION OF UTICA GOLD MINING COMPANY, LANE INVESTMENT COMPANY, EMMA ROSE AND HOBART ESTATE COMPANY FOR AN ORDER AUTHORIZING THE CONVEYANCE OF CERTAIN PROPERTIES.

Application No. 3357.

*Decided November 30, 1917.*

BY THE COMMISSION.

ORDER.

Utica Gold Mining Company, a corporation, having applied for authority to convey to Emma Rose and Lane Investment Company in

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equal shares, the undivided two-thirds interest of said company in certain waters, water rights, ditch systems and other property situated in the counties of Calaveras, Tuolumne and Alpine, state of California, used and operated by said Utica Gold Mining Company in conjunction with Hobart Estate Company, the owner of the other undivided one-third interest therein, under the name of Utica Mining Company, as an adjunct to certain mines and mining properties owned and operated by the said corporations under said name, and in part used for the supplying of water and electricity in and about the towns of Angels and Murphy in said Calaveras County, and for an order authorizing the granting by Lane Investment Company to Emma Rose and Hobart Estate Company of an option to purchase the legal title thus acquired by Lane Investment Company to an undivided one-third interest in said properties, and to the deposit in escrow of conveyances from Lane Investment Company to be delivered upon the exercise of said option.

And it appearing to the commission that this is not a case in which a public hearing is necessary and that the application should be granted,

*It is hereby ordered* that the application be and the same hereby is granted subject to the following conditions:

(1) That the consideration paid for the water and electric properties herein authorized to be transferred shall not be taken before this commission or any other public body as representing the value of said properties for rate fixing or other purposes;

(2) Whenever any conveyance is made of said properties a copy of the same shall within ten days after the conveyance be filed with the Railroad Commission.

(3) The authority herein granted shall apply only to such conveyance as may be made on or before December 31, 1918.

Dated at San Francisco, California, this thirtieth day of November, 1917.

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DECISION No. 4903.

IN THE MATTER OF THE APPLICATION OF J. E. MOORE FOR CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY TO OPERATE STAGE OR TRUCK SERVICE BETWEEN VISALIA AND PORTERVILLE.

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Application No. 3201.

*Decided November 30, 1917.*

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BY THE COMMISSION.

**FIRST SUPPLEMENTAL ORDER.**

In accordance with the order heretofore made in this proceeding on October 19, 1917, J. E. Moore has filed with the Railroad Commission

certified copies of permits from the board of supervisors of the county of Tulare, the board of trustees of the city of Visalia, the board of trustees of the city of Porterville, the board of trustees of the city of Exeter and the board of trustees of the city of Lindsay, as required by section 3 of chapter 213, laws of 1917.

Dated at San Francisco, California, this thirtieth day of November, 1917.

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DECISION No. 4904.

IN THE MATTER OF THE APPLICATION OF PACIFIC ELECTRIC RAILWAY COMPANY FOR CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY TO OPERATE AUTO BUS SERVICE BETWEEN SAN BERNARDINO, PATTON AND HIGHLAND.

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Application No. 3103.

*Decided November 30, 1917.*

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BY THE COMMISSION.

**FIRST SUPPLEMENTAL ORDER.**

In accordance with the order heretofore made in this proceeding on September 13, 1917, Pacific Electric Railway Company has filed with the Railroad Commission certified copies of permits from the board of supervisors of the county of San Bernardino and the mayor and common council of the city of San Bernardino, as required by section 3 of chapter 213, laws of 1917.

Dated at San Francisco, California, this thirtieth day of November, 1917.

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DECISION No. 4905.

IN THE MATTER OF THE APPLICATION OF HERMOSA BEACH WATER CORPORATION FOR PERMISSION TO ISSUE BONDS TO REIMBURSE THE COMPANY'S TREASURY FOR EQUIPMENT AND EXTENSIONS ADDED TO CAPITAL INVESTMENT.

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Application No. 3018.

*Decided November 30, 1917.*

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Order amending original authorization permitting applicant to pledge bonds heretofore authorized to be sold, for the purpose of securing promissory notes to be issued in renewal of outstanding notes which were to be discharged with the

proceeds of the bonds now authorized to be pledged, provided that at no time shall the security be in excess of a ratio to 10 to 8 of the debts secured.

BY THE COMMISSION.

#### FIRST SUPPLEMENTAL ORDER.

Whereas the Railroad Commission by Decision No. 4486, dated July 27, 1917, authorized Hermosa Beach Water Corporation to issue \$4,000.00 of bonds at not less than ninety-five (95) per cent of their face value and use the proceeds to pay indebtedness amounting to \$2,674.25, and to reimburse the company's treasury because of earnings expended for capital expenditures; and

Whereas applicant now reports that it has been able to sell only \$1,500.00 of said \$4,000.00 of bonds; that \$612.60 of the proceeds have been used to pay indebtedness and \$812.40 to reimburse the company's treasury for capital expenditures; that the indebtedness unpaid consists of \$615.15 (account) payable to Neptune Meter Company; \$900.00 (note) payable to H. R. Boynton Company; \$141.30 (account) payable to H. R. Boynton Company; \$355.00 (note) payable to Krogh Manufacturing Company; that the notes payable are overdue; that it may be impossible at this time to sell the remaining \$2,500.00 of bonds at the price fixed by the commission; that it desires authority to pledge said bonds if necessary to secure the indebtedness or borrow funds to reimburse its treasury; that new notes will be given before any bonds are pledged to secure the indebtedness represented by overdue notes; and

Whereas F. D. Cornell, president of Hermosa Beach Water Corporation, has assured the commission that if the order in Decision No. 4486 is modified so as to permit the pledging of the \$2,500.00 of unsold bonds, he would not allow said bonds to be reduced to ownership unless the company received for said bonds the price fixed by the commission; now, therefore,

*It is hereby ordered* that the order in Decision No. 4486 be and the same is hereby amended so as to permit Hermosa Beach Water Corporation to pledge the unsold \$2,500.00 face value of bonds to secure the payment of the following indebtedness:

Neptune Meter Company.....	\$615 15
H. R. Boynton Company (note).....	900 00
H. R. Boynton Company (account).....	141 30
Krogh Manufacturing Company (note).....	355 00

or indebtedness incurred to secure funds to pay the foregoing indebtedness or reimburse applicant's treasury to the extent indicated in the order in Decision No. 4486; provided, that the bonds be pledged at such a ratio that the face value of the debts secured shall never be less than 80 per cent of the face value of the bonds pledged; and provided,

further, that any moneys obtained through the pledging of the bonds be applied first to pay the foregoing indebtedness or indebtedness incurred to pay said indebtedness, and second, to the reimbursement of applicant's treasury.

*It is hereby further ordered* that the order in Decision No. 4486, dated July 27, 1917, remain in full force and effect except as modified by this first supplemental order.

Dated at San Francisco, California, this thirtieth day of November, 1917.

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DECISION No. 4906.

IN THE MATTER OF THE APPLICATION OF P. BUFFA FOR CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY TO OPERATE STAGE OR TRUCK SERVICE BETWEEN REDWOOD CITY AND PALO ALTO.

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Application No. 3291.

*Decided November 30, 1917.*

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Applicant granted a certificate permitting the operation of auto passenger carrying vehicles between Redwood City and Camp Fremont, provided that all necessary permits are secured from the public authorities of the territory through which he proposes to operate and that no machines are operated under such permits except those owned by applicant or leased under contracts approved by the commission.

*Jas. T. O'Keefe*, for Applicant.

*J. E. McCurdy*, for Peninsular Rapid Transit Company, Protestant.

BY THE COMMISSION.

**OPINION.**

P. Buffa applies for certificate that public convenience and necessity require him to operate a passenger stage service between Redwood City, San Mateo County, and Palo Alto, which is across the county line in Santa Clara County.

A public hearing was held by Examiner Westover at Redwood City.

Applicant wishes to operate one 5-passenger Maxwell car one round trip each hour from 10.25 in the morning until about midnight for a fare of 10 cents between Redwood City and Menlo Park, and 15 cents between Redwood City and Palo Alto. His proposed route is along the state highway from Redwood City to the Southern Pacific station at Palo Alto, but not entering the city limits of Palo Alto.

It developed at the hearing that applicant also wishes authority to run after 5 p.m. between Redwood City and Camp Fremont and not make the trips to Palo Alto. There are large numbers of soldiers at Camp Fremont who are daily at liberty between 5 p.m. and 6 a.m. to

leave the camp, and there is at present a greater demand for transportation between the camp and Redwood City than can be accommodated.

Applicant's route if he were to serve Camp Fremont would be from Redwood City down the state highway to Santa Cruz avenue, thence along that avenue to a point about three-quarters of a mile west of the highway. The military camp lies on both sides of the avenue and would be conveniently served with this point as a terminal.

Applicant began operation about the first of November, apparently not knowing that the authority of the commission is required under the law before beginning. He operated his car between Redwood City and Palo Alto during the day but only between Redwood City and Camp Fremont after 5 p.m. His gross receipts during any day have rarely exceeded \$3.00 but his receipts during the evening he reports as being usually \$4.00 or \$5.00 but with a better business on Saturday nights and Sunday nights.

It appears from the testimony in this proceeding and also in others which have been before the commission that there is ample transportation service between Redwood City and Palo Alto along the state highway but that there is not sufficient service between Redwood City and Camp Fremont.

Applicant's testimony as to his gross receipts from operation prior to 5 p.m. daily show that he could not hope to successfully operate between the two towns during the day and keep his car in condition to give the proper service. We believe, however, that the circumstances do justify his operating his car between Redwood City and Camp Fremont evenings after 5 p.m. and the order will limit his operation to that service upon a schedule to be hereafter approved by the commission when filed.

#### ORDER.

P. Buffa having filed herein a petition asking that the Railroad Commission declare that public convenience and necessity require the operation by said Buffa of one automobile as common carrier of passengers between Redwood City and Camp Fremont, a public hearing having been held, the matter having been submitted and being now ready for decision, the Railroad Commission hereby finds as a fact that public convenience and necessity require the operation by P. Buffa of an automobile as common carrier of passengers between Redwood City and Camp Fremont, on the conditions hereinafter specified.

Basing its order on the foregoing finding of fact and on the other findings of fact contained in the opinion which precedes this order, the Railroad Commission hereby declares that public convenience and necessity require the operation by P. Buffa of an automobile as a common carrier of passengers between Redwood City and Camp Fremont; provided, that this declaration shall not become effective until said

Buffa has secured from the Railroad Commission a supplemental order herein reciting that said Buffa has filed herein certified copies of permits from the county of San Mateo and the city of Redwood City as required by section 213, laws of 1917, and that he has filed time schedule providing for daily operation after 5 p.m. at times satisfactory to the commission; and provided, further, that the rights and privileges herein granted shall not be assigned or transferred unless the written consent of the Railroad Commission to such assignment or transfer has first been secured; and

*It is hereby ordered* that no vehicle may be operated under this certificate unless such vehicle is owned by the applicant herein or is leased by such applicant under a contract or agreement on a basis satisfactory to the Railroad Commission.

Dated at San Francisco, California, this thirtieth day of November, 1917.

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DECISION No. 4907.

IN THE MATTER OF THE APPLICATION OF T. C. LEE FOR CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY TO OPERATE STAGE AND TRUCK SERVICE BETWEEN QUINCY AND QUINCY JUNCTION.

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Application No. 3197.

*Decided November 30, 1917.*

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*T. C. Lee*, for Applicant.

BY THE COMMISSION.

**OPINION.**

This is an application by T. C. Lee to operate an auto stage between Quincy Junction, a point on the lines of the Western Pacific, and Quincy, in Plumas County, California. This application was filed in anticipation of the abandonment of service upon the part of Quincy Western Railway Company, an application for which purpose was filed by the railway company before this commission and which application has, upon request of applicant therein, been dismissed.

At the hearing of this matter, applicant testified that his application was made wholly in anticipation of a favorable decision to the Quincy Western Railway's application to abandon service and that if that application was not granted that it was his desire that the application herein be denied.

**ORDER.**

T. C. Lee having filed herein a petition asking that the Railroad Commission declare that public convenience and necessity require the operation by said T. C. Lee of an auto stage line for the transportation



of freight, express and passengers between Quincy Junction, California, and Quincy, California, a public hearing having been held thereon, the matter being submitted and now ready for decision, for the reasons hereinabove set forth,

*It is hereby ordered* that said application be and the same is hereby denied.

Dated at San Francisco, California, this thirtieth day of November, 1917.

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DECISION No. 4908.

IN THE MATTER OF THE APPLICATION OF COALINGA CONSOLIDATED WATER COMPANY FOR AUTHORITY TO INCREASE RATES.

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Application No. 3204.

*Decided November 30, 1917.*

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When a water utility transfers a portion of its system to a municipality at an agreed price, it can not claim that the remaining consumers should be required to pay an increased rate to compensate it for loss in revenue occasioned by the withdrawal of the city, as it is assumed that the purchase price, agreed to by the water company, covered all such items.

Salaries of a president, engineer and auditor totaling \$4,500.00 per annum is considered excessive for a small water company and a sum amounting to \$2,400.00 is allowed.

Applicant authorized to file a rate of 5 cents per barrel for all water used with a monthly minimum rate ranging from \$3.00 for three-quarter-inch meter to \$6.00 per month for two-inch meters. Petition for permission to establish a rate of 7½ cents per barrel for amounts in excess of a stated minimum amount denied.

*C. H. Holley*, for Applicant.

*Henry S. Richmond*, for the city of Coalinga.

*Edward Paul Haupt*, for majority bondholders.

BY THE COMMISSION.

OPINION.

The application of Coalinga Consolidated Water Company to increase rates was heard by Examiner Encell at San Francisco on October 1, 1917. At this hearing none of the consumers who would be affected by an increase appeared to protest. The record shows that notice of the hearing was published in a Coalinga newspaper on September 28, 1917, and that notice was personally served upon 16 of the 30 consumers who are now receiving water from applicant.

Practically all of the water is used in the drilling and operation of oil wells. The present rates are:

First 5,000 barrels at the rate of 2½ cents per barrel.

Over 5,000 and under 10,000 barrels, 2½ cents per barrel.

Over 10,000 barrels and under 15,000 barrels, 2 cents per barrel.

Over 15,000 barrels at the rate of 1½ cents per barrel.

The rates that the company asks to establish are as follows:

*Minimum Charges.*

Three-quarter-inch meters, \$3.00 per month.

One-inch meters, \$3.50 per month.

One-and-one-half-inch meters, \$5.00 per month.

Two-inch meters, \$6.00 per month.

All use above minimum, 7½ cents per barrel.

Under the rate asked for the charge for water up to the amount of the minimum payment would be 2½ cents per barrel.

This commission established rates to be charged by the Pleasant Valley and Coalinga Consolidated Water Companies for service furnished to the city of Coalinga and its inhabitants under the complaint of the city of Coalinga and application of the companies filed as Case 623 and Application 1341, respectively. On the thirteenth of January, 1915, the commission handed down its original order, Decision No. 2063, and on the eleventh of December, 1915, its opinion and order on petition for rehearing, this being Decision No. 2970. In these proceedings a distribution was made of the property of Coalinga Consolidated Water Company devoted respectively to the service of the city of Coalinga and to the oil fields.

The property of the Pleasant Valley Water Company has now been transferred to the city of Coalinga at a price agreed upon between the city and the owners of Pleasant Valley Water Company who were also owners of Coalinga Consolidated Water Company.

It must be assumed that in the sale of the properties of the Pleasant Valley Water Company that the owners of the public utility plants considered the loss of the city of Coalinga as consumer and were properly recompensed for both the property taken and the loss in revenue occasioned by the withdrawal of the city.

Prior to that sale certain definite portions of the charges both fixed and operating, were justly found chargeable to that portion of the business which was sold, namely, the city of Coalinga. These matters must have been considered and compensated for in the sale price. It would be manifestly unfair to now ask the remaining consumers to pay increased rates to cover any deficit in these charges, for the loss of which the company has already been compensated. The commission in its decision herein must take those matters into consideration as well as the property involved in and necessary to the service, depreciation, maintenance and operation expense.

*Property in use.*

Applicant asks interest upon the sum of \$117,656.00. In the earlier proceedings above referred to, engineers for the commission and for the companies respectively testified that the cost to reproduce the property

in joint use was \$48,009.00 and \$80,092.00, the latter including \$30,000.00 for water rights not included in the former. The commission found that \$24,000.00 represented the fair value of the portion of the property of Coalinga Consolidated Water Company used jointly for the city and the fields, chargeable to the city use. The entire property, exclusive of water rights, was appraised by the commission's engineers at \$102,142.00 and by the company's engineers at \$108,803.00. The appraisal of the property at the present time presented by the company totals \$117,656.00. To put this on the basis established in the former decision, we must deduct \$7,500.00 capital in lands and \$2,500.00 working capital, leaving \$107,656.00. We will assume that the cost to reproduce the property entire is \$104,000.00 and deducting \$24,000.00 as indicated by the former decision of the commission, leave \$80,000.00 as the rate base to be used at this time.

*Depreciation fund.*

The company in this proceeding presented an exhibit indicating that it believes \$5,642.00 should be set aside annually to cover depreciation of structures entire on the consolidated system. In the earlier proceeding, \$6,043.00 was found to be the proper annual allowance for depreciation of the Pleasant Valley Water Company's property and that portion of the consolidated system chargeable to the use of the city of Coalinga. Exhibits in this case indicate that depreciation at 6 per cent annually on the Pleasant Valley properties accounts for \$4,500.00 in round numbers of this amount and \$1,500.00 was allowed for depreciation annuity upon the portion of the consolidated system charged to the city. Deduction from the proposed depreciation fund by that amount seems proper, wherefore we will allow for depreciation of the property the sum of \$4,100.00 per annum.

*Maintenance and operation.*

Applicant's exhibit No. 3 in this proceeding, sets out the earnings and expenses annually for 1913 to 1916, inclusive, and for the first six months of 1917. The following table shows the average annual expense for the four-year period for comparison with the six months of 1917 expended to a full year, the company's estimate of immediate

future annual expense and the amount which we consider a proper allowance:

*Maintenance and Operating Expense.*

	Average of 4 years	Year 1917	Company's estimate	Allowance
<b>Pumping.</b>				
Labor -----	\$3,693 00	\$3,210 00	\$3,408 00	\$3,000 00
Fuel -----	5,519 00	11,195 00	18,135 00	12,000 00
Supplies, etc. -----	1,242 00	2,586 00	3,068 00	2,400 00
Repair of equipment -----	547 00	7,088 00	2,548 00	690 00
Repair of wells -----	751 00	597 00	880 00	700 00
Repair of buildings -----	5 00	370 00	50 00	10 00
<b>Distribution.</b>				
Labor and expense -----	122 00	1,578 00	1,460 00	400 00
Repair mains -----	1,253 00	2,518 00	1,779 00	1,800 00
Repair buildings -----	8 00	-----	-----	-----
<b>General.</b>				
Salaries and expense -----	4,518 00	5,650 00	5,100 00	2,400 00
Law expense -----	112 00	3 00	750 00	500 00
R. R. Commission expense -----	126 00	-----		
Miscellaneous -----	141 00	52 00		
Insurance -----	87 00	8 00	1,312 00	300 00
Repair buildings -----	-----	16 00		
Other expense -----	-----	205 00		
Taxes -----	467 00	416 00	400 00	400 00
<b>Total</b> -----	<b>\$18,591 00</b>	<b>\$35,492 00</b>	<b>\$39,490 00</b>	<b>\$24,600 00</b>

The reduction from the amount of maintenance and operation expense estimated by the company's witnesses is occasioned in part as follows:

*Pumping labor.*

While it is shown that the first half of 1917 occasioned an expenditure of over \$1,800.00, there will now be no pumping expense occasioned by use of water in the city of Coalinga. This should allow a less expenditure under that head even though the same number of men be employed, for the reason that a part of the time of such men can be used in other activities.

*Fuel.*

The estimated fuel cost, \$18,135.00, put forward by the company, is based upon an assumed price per barrel of \$1.55. The price at the time of hearing, it was testified, was \$1.10. The price to be paid even in the immediate future is problematic and may be either less or more. The company has acquired motors which it intends to use in pumping water and which will correspondingly reduce fuel purchase. According to testimony the use of electricity will be about as expensive as present fuel cost.

*General office salaries and expense.*

The company's estimate of \$5,100.00 is made up of salaries for president, \$1,800.00, engineer, \$1,200.00, auditor, \$1,500.00, traveling

expenses, \$600.00. The testimony of company representatives is that the consumers are 30 in number, all being operators on a considerable scale; that the business is not likely to increase, the operations being confined to a limited territory with no possibility of extension into other fields. It, therefore, seems entirely unreasonable that such a force of general officers be maintained, and we are providing for the employment of a general manager at \$2,400.00 per annum who will pay his own expenses. Should there be an unexpected increase of demands upon the system, the increased returns will warrant employment of engineers and auditors in an advisory capacity.

The miscellaneous general expense and legal expense, totaling \$800.00 per annum, should be sufficient to cover all other necessary general expenditures, having in mind that the business is decreasing and will continue to decrease.

#### *The rates.*

It will be assumed that total charges annually that the company has reason to expect from its sale of water to the present consumers for use of amounts of water delivered this season will be as follows:

Interest on \$80,000.00 at 8 per cent.....	\$6,400 00
Depreciation annuity, 6 per cent sinking fund.....	4,100 00
Maintenance and operation.....	24,600 00
Total charges .....	<u>\$35,100 00</u>

The company testified that the net business for a year during the immediate future will constitute delivery of approximately 700,000 barrels of water, and this indicates a price of 5 cents per barrel instead of the  $7\frac{1}{4}$  cents per barrel for amounts in excess of the listed minimum charges that the company desires to have established. Even this increase of rate is a drastic change from the rates formerly in effect that were established by the owners of this water system under agreements with the then water users. It may therefore be that the establishment of this rate will result in a decided diminution of demand through the fact that in its operation it will prove to be more than the consumers can well pay. However, as the consumers, the principal places of business of whom all are in San Francisco, in which city the hearing was held, were given opportunity to be present at the hearing and displayed no interest in the proceedings, the commission will authorize the company to file the rate indicated above. In so far as the application is made for the certain definite rate of  $7\frac{1}{4}$  cents per barrel, the application must be denied.

#### **ORDER.**

Application having been made by Coalinga Consolidated Water Company for authority to increase rates and a public hearing having

been held, and the commission being fully apprised in the premises, it is hereby found as a fact that the rates charged by applicant for water delivered in the oil fields and the rates applied for to be charged above certain amounts covered by stated minimum charges are unjust and unreasonable rates, and that the rates hereinafter set forth are just and reasonable rates to be charged for the water service in question,

*It is hereby ordered* by the Railroad Commission of the state of California that the application of Coalinga Consolidated Water Company, as to all other matters therein contained, be and it is hereby denied.

*It is hereby further ordered* that applicant is given authority to establish and file with the Railroad Commission within thirty days after date hereof the following schedule of rates:

For all water used, 5 cents per barrel.

Minimum monthly charges for water delivered through, respectively:

Three-quarter-inch meters -----	\$3 00 per month
One-inch meters -----	3 50 per month
One-and-one-half-inch meters -----	5 00 per month
Two-inch meters -----	6 00 per month

Dated at San Francisco, California, this thirtieth day of November, 1917.

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#### DECISION No. 4909.

IN THE MATTER OF THE APPLICATION OF GEORGE F. WILSON FOR CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY TO OPERATE STAGE OR TRUCK SERVICE BETWEEN EL CENTRO, CALIFORNIA, AND CAMPO, CALIFORNIA.

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Application No. 3150.

*Decided November 30, 1917.*

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An individual or corporation purchasing an auto stage line which was in operation prior to May 1, 1917, need not secure a certificate from this commission permitting the operation of such line, provided all local permits held by the selling company are transferable; however, should it be necessary to secure new local permits, the purchaser is obliged to secure a certificate from this commission.

Applicant granted a certificate permitting the operation of auto stage service for the transportation of passengers and baggage between Campo and El Centro, provided all necessary permits are secured from the local authorities of the territory through which he proposes to operate.

*Stephen Connell*, for Applicant.

*Warren E. Libby*, for Pickwick Stages, Protestant.

By THE COMMISSION.

#### OPINION.

Petitioner herein asks that the Railroad Commission make its order declaring that public convenience and necessity require the operation

by petitioner of one seven-passenger automobile as a common carrier of passengers and baggage between El Centro, Imperial County, and Campo, San Diego County, California, and intermediate points.

A public hearing was held by Examiner Encell at San Diego on October 10, 1917.

Applicant proposes to take over the stage business of the Arizona Auto Line now operated between the points in question by Walter S. Jenkins and desires to establish a schedule of one round trip daily, leaving El Centro at 8.00 a.m., arriving at Campo 12.00 noon, leaving Campo at 1.30 p.m., and arriving at El Centro at 5.00 p.m.

Applicant proposes to operate one 50-horsepower, 7-passenger Cadillac automobile to connect with trains of the San Diego and Arizona Railway now operating between San Diego and Campo, alleging that a great majority of the passengers carried either originate at or are destined to points located on such railway west of Campo.

At the hearing petitioner testified that passengers arriving at Campo on trains of the San Diego and Arizona Railway and those desiring to go to points on that line west of Campo, are unable to secure accommodations in the stages of the automobile lines operating between El Centro and San Diego through Campo and that the proposed local service is necessary to properly accommodate the traveling public.

Applicant herein proposes to take over the business of the Arizona Auto Line, which line was operating in good faith prior to May 1, 1917, and ever since has been and now is operating an auto stage service between the points set up in applicant's application. No testimony was offered on the part of applicant relative to the assignability of the permit granted by the local authorities to the Arizona Auto Line. If the permits under which the Arizona Auto Line operate are assignable, it would be unnecessary for applicant, as the successor of that line, to apply to the local authorities for a new permit, and in that case we do not believe that it would be necessary for him to apply for a certificate of public convenience and necessity from this commission. As we have stated before, however, no testimony was offered on this point. The testimony is clear, however, that the present transportation facilities are inadequate and we believe that a certificate should be granted herein.

The fares applicant proposes to charge are the same as are now being assessed by the Arizona Auto Line, as follows:

*One Way Fares.*

Between and—	Campo	Warren's	Indian Reservation	Boulevard	Jacumba
Warren's -----	.25				
Indian Reservation -----	.50	.50			
Boulevard -----	.75	.75	.50		
Jacumba -----	1.25	1.25	1.00	.50	
Mountain Springs -----	1.50	1.50	1.25	.75	.50
Coyote Wells -----	2.00	2.00	1.75	1.25	1.00
Dixieland -----	2.15	2.15	2.00	1.50	1.25
Seeley -----	2.15	2.15	2.15	1.75	1.50
El Centro -----	2.15	2.15	2.15	2.00	1.75

  

Between and—	Mountain Springs	Coyote Wells	Dixieland	Seeley
Coyote Wells -----	.75			
Dixieland -----	1.00	.50		
Seeley -----	1.25	.75	.50	
El Centro -----	1.50	1.00	.75	.50

The terminus of line at El Centro is the Barbara Worth Hotel and at Campo the Campo Hotel.

**ORDER.**

George F. Milner having filed herein a petition asking that the Railroad Commission declare that public convenience and necessity require the operation by said George F. Milner of an automobile as a common carrier of passengers and baggage between El Centro and Campo, a public hearing having been held and the matter having been submitted and now ready for decision, the Railroad Commission hereby finds as a fact that public convenience and necessity require the said services.

Basing its order on the foregoing finding of fact and on the further findings of fact contained in the opinion which precedes this order, the Railroad Commission hereby declares that public convenience and necessity require the operation by George F. Milner of an automobile service for the common carriage of passengers and baggage between El Centro and Campo, California, provided that this declaration shall not become effective until the said Milner has procured from the Railroad Commission a supplemental order herein reciting that said Milner has filed certified copies of permits from the counties of San Diego and Imperial and the city of El Centro as required by section 3 of chapter 213, laws of 1917.

Dated at San Francisco, California, this thirtieth day of November, 1917.



## DECISION No. 4910.

IN THE MATTER OF THE APPLICATION OF STATE WAREHOUSE COMPANY FOR AUTHORITY TO INCREASE AND ADJUST WAREHOUSE RATES AT STOCKTON, MARYSVILLE, CHICO AND SOUTH VALLEJO.

Application No. 3225.

Decided November 30, 1917.

Owing to the material increases in the cost of labor and the increases in the expense of operating a warehouse, applicant is authorized to put into effect increased schedules of rates covering the storage of grain and other commodities in its warehouses located at Stockton, Marysville and Chico.

*Goodfellow, Eells, More & Orrick*, by *C. J. Goodell*, and *Neumiller & Ditz*, for Applicant.

BY THE COMMISSION.

## OPINION.

State Warehouse Company, incorporated October 20, 1911, applies for authority to increase and establish certain rates for the storage of grain and produce at its warehouses located at Stockton, Marysville, Chico and South Vallejo. Applicant also operates a warehouse at Salinas, but no adjustment of rates is requested for that point. The application is based upon alleged recent increases in the cost of warehouse labor, material and general upkeep.

Public hearings were conducted by Examiner Westover at each of the points where increased rates are requested, and also at San Francisco. Notice of the hearing in each case was given to applicant's patrons, but no one appeared in opposition to the establishment of rates proposed in the application.

Grain is the principal commodity stored, but in addition thereto rice is stored at Marysville; and at Stockton almonds, bags, beans, flour, potatoes, onions and wool are also received for storage. In the following table in parallel columns are shown the present rates for storage and transferring, the rates which applicant desires to establish, and the resulting increases, at each of the points involved, viz:

*Grain and Beans at Stockton.*

Storing.	Present	(Rates per ton)	
		Proposed	Increase
1 month -----	\$0 50	\$0 50	-----
2 months -----	50	75	\$0 25
3 months -----	75	1 00	25
Season -----	1 00	1 00	----
Transferring.			
From car or boat, including 10 days' storage-----	15	35	20
From team, if shipping directions be given within 3 days	25	35	10

*Grain at Marysville and Chico.*

Storing.	Present	(Rates per ton) Proposed	Increase
1 month -----	\$0 25	\$1 00	\$0 75
2 months -----	50	1 00	50
3 months -----	75	1 00	25
Season -----	75	1 00	25

*Grain at South Vallejo.*

Storing.	Present	(Rates per ton) Proposed	Increase
1 month -----	\$0 25	\$0 50	\$0 25
2 months -----	50	50	---
3 months -----	50	*75	25
Season -----	50	*1 00	50

\*Three months, or to January 1.

\*To end of season after January 1.

Applicant also desires to establish and collect at Stockton separate additional charges for certain classes of service heretofore performed under its general storage rates, such as loading and unloading "gondola" cars, loading box cars to full visible capacity, reweighing, stenciling bags, deliveries in small lots and loading "decked" cars; and, at South Vallejo, a charge of 20 cents per ton for loading cars. Other minor matters pertaining to special service not now performed by applicant and to optional methods of piling potatoes and onions for preservation do not require consideration in this proceeding; they may be covered by tariff provision, if necessary.

State Warehouse Company was incorporated largely for the benefit of Sperry Flour Company which owns all of applicant's capital stock. With the exception of the property at Stockton, all the warehouses operated by applicant are likewise owned by Sperry Flour Company.

At Stockton the property known as Crown Mills is under lease to Sperry Flour Company for \$4,200.00 per year, all of which amount is charged to applicant as rent for that section of the structure used as a public warehouse.

A portion of Sperry Flour Company's plant at South Vallejo, including that part devoted to public storage and operated by applicant was destroyed by fire on August 31, 1916. It is being rebuilt, and when finished applicant will reopen its warehouse; however, the amount of space available and rental therefor have not been determined, consequently rates, rules and regulations will not be established in the accompanying order for warehouse service at South Vallejo. Later the matter may be covered by supplemental order if necessary. At each of the other points involved in this proceeding the following table shows tonnage capacity, the appraised value of all the property devoted

to public storage, except that at Stockton, and the annual rental paid by applicant for use of the same:

	Capacity	Valuation by American Appraisal Company of Milwaukee, 1915 (Not known)	Annual rental
Stockton -----	10,000 tons		\$4,200 00
Marysville -----	4,500 tons	\$18,960 88	2,400 00
Chico -----	1,000 tons	15,872 18	600 00

Although applicant produced no figures to show cost or present value of the warehouse property at Stockton, the evidence shows that the entire rental of \$4,200.00 per annum paid by Sperry Flour Company to Stockton Milling Company for the property is in turn charged against applicant for rent, notwithstanding the fact that nearly one-half of the occupied floor space is used by Sperry Flour Company for other purposes.

On the other hand, taxes, insurance and the expense of repairs are all paid by Sperry Flour Company. The Marysville and Chico properties devoted to warehousing were assessed for taxation purposes in 1916 by the respective county assessors as follows:

	Marysville	Chico
Land (warehouse pro rata) -----	\$8,000 00	\$280 00
Buildings -----	18,450 00	15,000 00
Totals -----	\$26,450 00	\$15,280 00

Based upon the assessed valuation shown above, the rental paid by applicant at Marysville amounts to 9 per cent on the investment and at Chico about 4 per cent, without providing for taxes, insurance, repairs and depreciation, which are to be borne by the flour company in each case. The valuation on each capacity ton of warehouse space available at Marysville is \$6.00. This, applied to the Stockton property, would indicate an approximate value of \$60,000.00 for the entire property, the present rental for which would equal 7 per cent. These figures do not show that either rental is unreasonable for the property occupied, although less valuable property, if available, would probably meet all requirements. The Stockton rental charged applicant annually was \$2,150.00 in 1915, \$3,600.00 in 1916, and \$4,200.00 in 1917. Its Marysville annual rental was \$600.00 in 1915, \$1,200.00 in 1916 and \$2,400.00 in 1917; that at Chico was \$300.00 for 1915 and 1916 and \$600.00 for 1917. These changes in rental charges should be kept in mind in connection with the operating statements hereinafter shown.

Actual tests made by applicant at Stockton show that under the present wage scale it costs 22.9 cents per ton to receive, truck and pile grain. Estimates for the same service at Marysville and Chico indicate a cost of 19.5 cents and 17 cents, respectively. Accepting applicant's contention that an equal or greater expense is involved in delivering

grain, and adding to this amount the rentals per ton paid for storage space at the three points, the following showing as to costs would result in a year of capacity storage:

	Rental per ton of space	Handling per ton	Total cost
Stockton -----	\$0 42	\$0 46	\$0 88
Marysville -----	53	39	92
Chico -----	60	34	94

An operating statement submitted by applicant for the calendar years 1915 and 1916 and the first six months of 1917, shows average net earnings per annum for this period to be—

At Stockton -----	\$2,590 13
At Marysville -----	505 10
At Chico -----	*186 42

\*Loss.

A summary of the said statement follows:

1915—	Receipts	Disbursements	Profit	Loss
Stockton -----	\$13,434 71	\$7,429 51	\$6,005 20	-----
Marysville -----	1,160 35	1,685 97	-----	\$525 62
Chico -----	230 82	494 75	-----	263 93
Salinas -----	12 75	21 57	-----	8 82
South Vallejo (not operated) -----	-----	-----	-----	-----
Totals -----	\$14,838 63	\$9,631 80	\$6,005 20	\$798 37

Net profit ----- \$5,206 83

1916—	Receipts	Disbursements	Profit	Loss
Stockton -----	\$7,551 01	\$8,328 02	-----	\$777 01
Marysville -----	3,683 68	1,799 85	\$1,883 83	-----
Chico -----	491 63	343 75	147 88	-----
Salinas (not operated) -----	-----	-----	-----	-----
South Vallejo -----	613 47	502 65	110 82	-----
Totals -----	\$12,339 79	\$10,974 27	\$2,142 53	\$777 01

Net profit ----- \$1,365 52

1917, first 6 months only—	Receipts	Disbursements	Profit	Loss
Stockton -----	\$6,004 17	*\$4,757 02	\$1,247 15	-----
Marysville -----	1,238 83	<sup>b</sup> 1,334 18	-----	\$95 35
Chico -----	-----	<sup>c</sup> 350 00	-----	350 00
Totals -----	\$7,243 00	\$6,441 20	\$1,247 15	\$445 35

Net profit ----- \$801 80

\*Labor, \$1,421.71; rent and overhead, \$3,335.31.

<sup>b</sup>Labor, \$134.18; rent, \$1,200.00.

<sup>c</sup>Labor, \$50.00; rent, \$300.00.

In the \$14,838.63 representing total receipts for 1915 at all of applicant's warehouses is included \$8,253.50 storage accrued to December 31, 1915, on 8,454 tons of grain for which no corresponding

cost of delivery or other expense appears; in like manner the total receipts for 1916 include accrued storage amounting to \$3,116.00 on 5,195 tons of grain, the delivery expense for which is carried over to 1917. These items are not segregated as to warehouses.

The showing that the Stockton warehouse made a profit of \$6,005.20 in 1915 and suffered a loss of \$777.01 in 1916, is explained in part by the fact that in 1915 Sperry Flour Company stored large quantities of grain with applicant at Stockton, which business was largely withdrawn upon completion of its own storage bins in 1916; the discrepancy is further accounted for by the higher cost of labor and incidentals in 1916 and an increase of \$1,450.00 in the rental previously paid for the warehouse.

It will be observed that at Marysville a loss of \$525.62 is shown for 1915, and for 1916 a profit of \$1,883.83. The testimony shows this to be due to the fact that, late in 1915, 2,033 tons of rice were stored at Marysville, the revenue from which appears in the 1916 report. Rice storage at this point in 1916 fell to 908 tons.

As previously stated, applicant bases its request for higher rates upon alleged increases in the expense of operating its warehouses, with particular reference to the present cost of labor. At Marysville and Chico, as the testimony shows, from \$2.75 to \$3.00 per day is now paid for labor which previously cost a maximum of \$2.50 per day; and at Stockton, labor that could be employed a year ago for 30 cents per hour now costs 39 cents per hour—an increase of 30 per cent.

The shorter hours demanded and the general inefficiency of warehouse labor available at the present time as compared with that of previous years, according to witnesses for applicant, add to the present cost of operating these warehouses.

Unprecedented increases have been made in the prices of supplies necessary in the operation of a warehouse, such as bags and twine, and also in the cost of materials for general repairs.

The additional revenue to be derived from applicant's proposed rates can not be estimated with accuracy. If, however, the rates requested had been in effect in 1916, the following figures would show approximately the increased receipts for the storage of grain:

At Stockton—	
Storage for 2 months, 558 tons at 25 cents-----	\$139 50
Storage for 3 months, 282 tons at 25 cents-----	70 50
At Marysville—	
Storage for 1 month, 40½ tons at 75 cents-----	30 75
Storage for 2 months, 1½ tons at 50 cents-----	75
Storage over 2 months, 51½ tons at 25 cents-----	12 88
At Chico—	
Storage for 1 month, 81 tons at 75 cents-----	60 75
Total -----	<u>\$314 75</u>

Applicant made no segregation of the miscellaneous service at Stockton which could be used as a basis for estimating increased revenue from other sources; but it seems fair to assume that whatever increases may result from such incidental warehouse service will be equalized by the increased cost of labor necessary to supply the service.

To summarize:

Applicant's present rates have been in effect without protest for more than three years, justifying the impression that they have not been unreasonably high for the service rendered; at Marysville and Chico they are lower than the prevailing rates in that section of the state. Substantial increases in the cost of labor and material have been shown to have increased the expense of operating applicant's warehouses.

Additional costly service with reference to loading and unloading cars, stenciling bags, making small deliveries, and reweighing is demanded by patrons. Transferring grain and other commodities relates almost wholly to labor, the most costly item of warehouse expense, the increase in which has already been indicated. At Marysville and Chico the present rate of 25 cents per ton for one month's storage involves a direct loss on each ton so handled, as already shown by the cost per ton to receive and deliver grain.

The rates requested by applicant, in so far as they agree with the rates prescribed in the accompanying order, have been justified and should be authorized.

Rates, rules and regulations now in force but not affected by the accompanying order, may, if desired, be refiled in connection with the changes authorized. All authorized increases in rates, or adjustments bringing about increases, are set forth in the order.

#### ORDER.

State Warehouse Company, a corporation, having applied to the Railroad Commission for authority to increase and adjust its warehouse rates now in effect at Stockton, Marysville, Chico and South Vallejo, public hearings having been held thereon, the matter having been submitted and being now ready for decision, it is hereby found as a fact that the rates now charged by applicant for warehouse service at Stockton, Marysville and Chico, in so far as they conflict with the rates herein established, are unjust and unreasonable, and that the rates herein established are just and reasonable rates.

Basing its order upon the foregoing findings of fact, and upon the other findings which are contained in the opinion preceding this order,

*It is hereby ordered* that State Warehouse Company be and the same hereby is authorized to publish, file with the Railroad Commission and thereafter collect for service at its warehouses located at Stockton,

Marysville and Chico, rates conforming to the following schedule, to wit:

**Schedule of Charges for Warehouse Service.**

**AT STOCKTON, CALIFORNIA.**

*Grain or Beans in Bags.*

Item—

1. <sup>a</sup>Storing.
 

For 1 month, or less .....	Per ton \$	50
For 2 months, or any fraction over 1 month .....	Per ton	75
For any period over 2 months, to include season ending May 31, for grain; season ending August 31, for beans .....	Per ton	1 00
2. <sup>a</sup>Transferring through warehouse.
 

Grain, including not over 10 days storage .....	Per ton	35
<sup>b</sup> Beans, including not over 10 days storage .....	Per ton	25

<sup>a</sup>Rates for storing or transferring (Items No. 1 and No. 2) include unloading from car or team, weighing *in*, and loading on cars, except as shown in Items No. 6 and No. 7.  
<sup>b</sup>Applies only when in transit for cleaning.
3. Reweighing—for convenience of owner .....
 Per ton | 10 |
4. Delivering—in small quantities.
 

Grain, less than 2 tons .....	Each delivery	25
Beans, less than 1 ton .....	Each delivery	25
5. Stenciling bags .....
 Per ton | 03 |
6. Loading box cars.
 

When necessary to pile grain or beans in vertical tiers to a height of more than 7 bags, add to rates shown in Items No. 1 and No. 2, and apply on entire contents of cars so loaded ..
7. Loading and unloading "gondola" cars.
 

Add to rates shown in Items No. 1 and No. 2, and apply on entire contents of cars .....

*Onions and Potatoes in Bags.*

8. <sup>a</sup>Storing.
 

For 1 month, or less .....	Per bag	03
For each month or fractional part thereof, after first month .....	Per bag	01

<sup>a</sup>Includes weighing *out* and loading on cars (not "decked"); but owner must deliver into warehouse.
9. Loading "decked" cars .....
 Per carload | 60 |
10. Delivering in lots less than 1 ton .....
 Each delivery | 25 |

**AT MARYSVILLE AND CHICO.**

*Grain.*

11. <sup>a</sup>Storing.
 

For 2 months, or less .....	Per ton	75
Over 2 months, and including May 31, following .....	Per ton	1 00

<sup>a</sup>Includes loading on cars.
12. Resacking charges.
 

Applicable at all points named in this schedule, necessary expense of resacking or repairing sacks, when not attributable to warehousemen's negligence, will be charged to the owner of the commodity at the actual cost of labor and material used.

Dated at San Francisco, California, this thirtieth day of November, 1917.

## DECISION No. 4911.

IN THE MATTER OF THE APPLICATION OF THE SOUTHWESTERN GAS  
COMPANY FOR PERMISSION TO CHANGE RATES.

Application No. 3163.

*Decided November 30, 1917.*

A utility can not expect to transfer all the increases in the cost of operation due to the present emergency, to its consumers in the form of increased rates, but should be willing to assume a portion of the burden itself in the form of economies in operation and diminished earnings.

Applicant's earnings heretofore having been below the cost of money, it is entitled to increases at the present time and the following schedule of gas rates established to become effective for meter readings of December 15, 1917: first 400 cubic feet or less, per month, \$1.00; next 1,000 cubic feet per meter per month, \$1.75 per 1,000, ranging to \$1.10 per 1,000 cubic feet for amounts in excess of 10,000 cubic feet per month. A discount of 25 cents made on each bill paid within fifteen days after receipt.

*Claude H. Webber*, for Applicant.

*W. C. Petchner*, for town of Hemet.

BY THE COMMISSION.

## OPINION.

This is the application of the Southwestern Gas Company for an increase of its rates for gas in the cities of Hemet and San Jacinto, Riverside County, California, in which cities it operates an artificial gas production and distribution system.

In its application the company alleges that the present rates are not sufficient to allow interest on the money invested; that the increased costs will cause a serious deficit in the company's operations and that the present rates are not equitable to all consumers. The company requests authority to increase its rates for artificial gas sufficient only to meet the increased operating expenses caused particularly by the increased cost of fuel. In the original application it asked that certain rates be approved. At the hearing, however, the company amended its application and asked that the commission fix a rate which it should find to be just and reasonable.

A hearing in this matter was held before Examiner Encell at Hemet on November 13, at which time evidence and testimony were introduced.

The rates charged by Southwestern Gas Company for gas of approximately 600 B. t. u. per cubic foot have, in the past, and now consist of a winter and summer rate. These rates have never been passed on by the commission.

The winter rate is \$1.50 per 1,000 cubic feet where the monthly consumption is less than 3,000 cubic feet and \$1.25 per 1,000 cubic feet where the consumption exceeds that amount. The summer rate,



charged from April 1 until October 31, is \$1.50 per 1,000 cubic feet where the monthly consumption is less than 5,000 cubic feet. Where the consumption exceeds 5,000 cubic feet per month there is a discount of 5 cents per 1,000 cubic feet for each 5,000 cubic feet consumed. The minimum bill charged in both cases is 75 cents per meter per month.

Assistant Engineer W. J. Hammond of the commission's gas and electric department submitted a report and testified regarding the approximate capital invested by the Southwestern Gas Company, the revenues and expenses for the last three years and the effect of the increased cost of oil upon the company's net revenue and operating expenses.

From Mr. Hammond's testimony it appears that the estimated investment in these properties is approximately \$40,000.00. This estimate appears sufficiently accurate for the determinations in this matter.

The revenues and expenses together with the returns realized for the three years last past are set forth as follows:

	1914	1915	1916
Operating revenue -----	\$9,441 89	\$10,268 93	\$9,428 18
Operating expense -----	7,577 77	7,513 82	7,458 14
Net for interest and depreciation-----	\$1,864 12	\$2,755 11	\$1,970 04
Net rate for interest and depreciation--	4.66%	6.9%	4.93%
Net rate for interest-----	1.85%	4.1%	2.12%

The statistics for the year 1916 show the following:

Barrels of oil used-----	2,336
Total gas manufactured-----	7,157,900 cubic feet
Total gas sold-----	6,416,300 cubic feet
Average number of consumers-----	315
Gas sold per consumer-----	20,360 cubic feet
Revenue per consumer (incl. misc. revenue)-----	\$29 93
Revenue per 1,000 cubic feet sold (incl. misc. revenue)--	\$1 47
Gallons oil per 1,000 cubic feet sold-----	15.3

During the year 1916 the company paid \$1.05 per barrel for oil delivered at Hemet. The cost of oil steadily increased until August, 1917, since which date the company has paid \$1.70 per barrel for oil. Mr. Webber, manager of the company, testified that he was unable to obtain a contract for oil and was, therefore, required to pay prices subject to market fluctuations.

Applicant's business has not shown any increase during the past three years as will be noted by reference to the revenues for 1914, 1915 and 1916, and it is probable that without material increase in investment the company's gas business will not be much greater in 1918 than in 1915 or 1916.

Mr. Webber testified that some rearrangements were being made at the company's plant by which he hoped to realize a slight saving in oil and also by the extension of certain mains between 30 and 40 new

consumers would be added to the company's system. Such will not, however, offset the material increase in operating expenses resulting from the increased price of oil.

The increase in oil cost of 65 cents per barrel over 1916 price, if applied to the amount purchased during that year, shows an increase in operating expenses for that item alone of \$1,518.40 or \$0.236 per 1,000 cubic feet of gas sold. Other expenses will tend to increase this cost further. This increase alone will require an average rate of \$1.71 per 1,000 cubic feet sold to return the same low net return received in 1916.

It is apparent from the above that if applicant is not granted relief it will, under the present oil prices, be barely able to meet its operating expenses in the future and will, therefore, not be able to earn any return upon its investment.

During the present national crisis a company must not only economize in every way possible but must also expect in many instances to have to forego a considerable part of its profits. In the case of this company, however, its net earnings have been below the cost of money and we believe that, considering these previous losses, the applicant is entitled at least to an increase of rates which will as near as possible offset the increased cost of oil.

Applicant in this case asks only for an increase sufficient to offset the increase in the cost of oil and states that in the future, if oil prices decline, it will be willing to reduce its rates for gas.

An increase in gas rates in general is accompanied by a loss of some business owing to the greater economy on the part of consumers and to the changing to other fuels. Under the present conditions, however, practically all other forms of fuel which can be used in competition with gas have materially advanced in price also, so that any material decrease in sales accompanying such an increase will probably not be realized.

It appears from the testimony in this matter that a form of rate which would tend to encourage increased use of gas and also one that would encourage the prompt payment of bills at the company's office would result in a material saving to both company and the consumer and not require as high a rate as would be required otherwise.

The rates set forth in the order herein will result in an increased revenue sufficient to compensate for the increase in oil cost provided the sales do not decrease materially. In this schedule a discount of 25 cents for prompt payment is made on all bills to encourage payment and reduce cost of collection, which it appears will reduce operating expenses considerably.

**ORDER.**

Southwestern Gas Company having applied to increase its gas rates and a hearing having been held and the matter being submitted and now ready for decision, and the Railroad Commission finding as a fact that the existing rates under the present conditions of cost of operation are unjust and unreasonable and that applicant should be granted authority to increase its rates to those set forth in this order,

*It is hereby ordered* that Southwestern Gas Company be and the same is hereby authorized to charge and collect the following rates for gas of 600 B. t. u. per cubic foot average heat content in the towns of Hemet and San Jacinto and contiguous territory:

**SCHEDULE "A."**  
**General Gas Service.**

RATE.		
First	400 cubic feet or less per meter per month-----	\$1 00
		Per 1,000 cubic feet
Next	1,600 cubic feet per meter per month-----	\$1 75
Next	3,000 cubic feet per meter per month-----	1 50
Next	5,000 cubic feet per meter per month-----	1 30
All over	10,000 cubic feet per meter per month-----	1 10

*Discount for prompt payment:* A discount of 25 cents will be made on each bill which is paid at the time bill is rendered or within fifteen days thereafter.

The above rates herein ordered shall be applicable to all regular meter readings made on or after December 15, 1917, provided Southwestern Gas Company shall have filed with this commission said rates on or before December 10, 1917.

Dated at San Francisco, California, this thirtieth day of November, 1917.

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**DECISION No. 4912.**

**IN THE MATTER OF THE APPLICATION OF THE SOUTH SAN FRANCISCO BELT RAILWAY AND THE SOUTH SAN FRANCISCO LAND AND IMPROVEMENT COMPANY AND SOUTHERN PACIFIC COMPANY FOR AN ORDER OF THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA, AUTHORIZING THE SOUTH SAN FRANCISCO BELT RAILWAY AND THE SOUTH SAN FRANCISCO LAND AND IMPROVEMENT COMPANY TO LEASE AND AUTHORIZING SOUTHERN PACIFIC COMPANY TO HIRE THAT CERTAIN RAILROAD, ITS SIDINGS, SPUR TRACK AND APPURTENANCES KNOWN AS "SOUTH SAN FRANCISCO BELT RAILWAY."**

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Application No. 2824.

*Decided November 30, 1917.*

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By THE COMMISSION.

**FIRST SUPPLEMENTAL ORDER.**

The application in the above-entitled matter having heretofore been granted by the commission (Decision No. 4258) upon the condition that

clearances on the railway of the South San Francisco Belt Railway should be brought to the standard prescribed by the commission's General Order No. 26; and it now appearing that this condition has been complied with, except for the four clearances as follows:

*First*—The overhanging roof of the platform at the rear of the Western Meat Company's main plant which is 19 feet 6 inches instead of 22 feet, from the top of rail, at a distance of 4 feet 10 inches from the center line of track.

*Second*—The clearance between the track and unloading platform at the stock corrals which is 5.55 feet instead of 6.5 feet.

*Third*—The clearance between the top of rail and turn-buckle on stock bridge leading from the stock corrals to abattoirs which is 20.7 feet instead of 22 feet.

*Fourth*—The clearance between platform at the rear of the Western Meat Company's main plant and the center of track which is 6.3 feet instead of 6.5 feet.

And it further appearing that the foregoing clearances are not dangerous to trainmen or others.

*It is hereby ordered* that permission be granted applicants to operate the tracks of the South San Francisco Belt Railway with the clearances impaired as above, provided all other clearances shall be those prescribed in the commission's General Order No. 26.

*It is hereby further ordered* that all other conditions in the preceding order be and the same hereby are in full force and effect.

Dated at San Francisco, California, this thirtieth day of November, 1917.

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Decision No. 4913, grade crossing; not printed. See end of volume.

DECISION No. 4914.

IN THE MATTER OF THE APPLICATION OF SANTA ROSA, PETALUMA AND SAUSALITO AUTO STAGE COMPANY FOR CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY TO OPERATE STAGE OR TRUCK SERVICE BETWEEN SANTA ROSA AND SAUSALITO.

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Application No. 3313.

*Decided November 30, 1917.*

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Applicant granted a certificate permitting the operation of automobile passenger service between Sausalito and Santa Rosa and intermediate points, provided certified copies of necessary permits from the public authorities of the territory through which applicant will operate, are filed with the commission.

C. A. Brauch, for Applicant.

J. J. Geary, for Northwestern Pacific Railroad Company.

*L. C. Pistolesi*, for city of Sausalito.

*E. H. Maggard*, for Petaluma and Santa Rosa Railway.

BY THE COMMISSION.

### OPINION.

C. A. Brauch, sole owner of Santa Rosa, Petaluma and Sausalito Auto Stage Company, applies for a certificate that public convenience and necessity require him to operate a passenger stage service between Santa Rosa and Sausalito, via Petaluma, through Marin County and a part of Sonoma County.

A public hearing was held herein by Examiner Westover at Sausalito on November 20, 1917.

Applicant proposes to operate a seven-passenger Hudson car on the schedule shown below in comparison with the train schedule of Northwestern Pacific Railroad Company:

#### *Northwestern Pacific Railroad Company.*

North bound				South bound			
Leave Sausalito	Leave San Rafael	Leave Petaluma	Arrive Santa Rosa	Leave Santa Rosa	Leave Petaluma	Leave San Rafael	Arrive Sausalito
8.20 a.m.	8.45 a.m.	9.28 a.m.	10.00 a.m.	-----	-----	7.30 a.m.	7.53 a.m.
8.50 a.m.	9.15 a.m.	-----	-----	6.40 a.m.	7.12 a.m.	8.00 a.m.	8.23 a.m.
*9.20 a.m.	*9.45 a.m.	10.32 a.m.	11.11 a.m.	8.13 a.m.	8.46 a.m.	9.30 a.m.	9.53 a.m.
11.20 a.m.	11.47 a.m.	12.35 p.m.	1.09 p.m.	9.15 a.m.	9.46 a.m.	10.32 a.m.	10.53 a.m.
2.20 p.m.	2.45 p.m.	3.26 p.m.	3.50 p.m.	2.38 p.m.	3.16 p.m.	4.00 p.m.	4.23 p.m.
3.50 p.m.	4.15 p.m.	5.00 p.m.	5.40 p.m.	-----	-----	5.00 p.m.	5.23 p.m.
5.20 p.m.	5.47 p.m.	-----	-----	*4.35 p.m.	5.10 p.m.	6.00 p.m.	6.24 p.m.
5.50 p.m.	6.17 p.m.	7.10 p.m.	7.45 p.m.	5.15 p.m.	5.46 p.m.	6.30 p.m.	6.53 p.m.

\*Tuesday, Thursday, Saturday, Sunday.

#### *Santa Rosa, Petaluma and Sausalito Auto Stage.*

North bound				South bound			
Leave Sausalito	Leave San Rafael	Leave Petaluma	Arrive Santa Rosa	Leave Santa Rosa	Leave Petaluma	Leave San Rafael	Arrive Sausalito
12.15 a.m.	1.15 a.m.	2.15 a.m.	3.15 a.m.	11.15 a.m.	12.15 p.m.	1.15 p.m.	2.00 p.m.
3.15 p.m.	4.00 p.m.	5.00 p.m.	6.00 p.m.	7.00 p.m.	8.00 p.m.	9.00 p.m.	10.00 p.m.

Applicant's proposed fares in comparison with the fares of Northwestern Pacific Railroad Company are as follows:

	Northwestern Pacific Railroad Company	Santa Rosa, Petaluma and Sausalito Auto Stage
Santa Rosa to Petaluma -----	\$0.30	\$0.50
Santa Rosa to San Rafael -----	.95	1.00
Santa Rosa to Sausalito -----	1.20	1.25
Petaluma to San Rafael -----	.65	.65
Petaluma to Sausalito -----	.90	1.00
Novato to Sausalito -----	.60	.75

The Northwestern Pacific Railroad Company has no objection to the operation under the proposed night schedule, but takes the position that the day schedule is not needed as its road gives ample service throughout the day. The Petaluma and Santa Rosa Railway has no objection to the granting of the application to operate under both the day and night schedules.

Applicant lives at Santa Rosa and has a contract, which expires in July, 1918, under which he carries San Francisco newspapers to Santa Rosa and way points by automobile. For this purpose he leaves Santa Rosa at 7.00 p. m., arrives at Sausalito at 10 p.m. and awaits the arrival of the ferryboat of the Northwestern Pacific Railroad Company which leaves San Francisco at 11.30 p.m., which is due to arrive at Sausalito at 12.17 a.m., on which the newspapers are brought to Sausalito. As far as the proposed night schedule is concerned, he merely wishes authority to carry passengers on this trip which he is obliged to make under his contract.

Applicant's schedule when filed should show the necessary modification to permit him to connect with the ferryboat arriving at Sausalito at 12.17 a.m.

Applicant reports that Elmer E. Decker and P. W. Dongan, who were authorized by the Railroad Commission in its Decision No. 4766, dated October 19, 1917, to operate four round trips a day over the route in question, discontinued operation about October 29, 1917, and that thereupon applicant began to operate on the above two schedules.

A statement of passengers carried from November 1 to November 22, 1917, shows a total of 151 carried on 79 trips, or an average of nearly two passengers per trip on the day schedule. Of these 56 traveled the entire distance between Santa Rosa and Petaluma, and 48 traveled between Petaluma and Sausalito, Santa Rosa and San Rafael, or an equivalent distance. Of the above 56 and 48 passengers 21 were north-bound from Sausalito. The gross receipts amounted to \$152.65 or over \$1.00 per passenger. On the night schedule from October 30 to November 20, 1917, 319 passengers were carried, or an average of almost 8 passengers per trip. The gross revenue derived for the period from the night schedule and what part of the route was traveled by these passengers is not shown by the statement. Since there is no protest being made against operating upon this schedule and applicant is obliged to make the trip in any event under his contract, this information is of less importance than that relating to the day schedule. From the number of passengers carried, it appears that the proposed service will further public convenience.

Applicant stated that he had received permits as required by section 213, laws of 1917, from the boards of supervisors of the counties

of Sonoma and Marin and from the city councils of the cities of Petaluma and San Rafael.

Mr. Pistolesi, one of the trustees of the city of Sausalito, stated that the city trustees had determined to grant the permit if the Railroad Commission first declared that public convenience and necessity required the service.

The testimony regarding the procedure before the several governing bodies suggests a serious doubt whether the permits referred to comply with the requirements of the statute which requires certain advertising and a public hearing before the permits are granted.

It appears that Messrs. Decker and Dongan made no effort to procure the necessary local permits. As they did not diligently proceed to secure the necessary local permits specified in the commission's order and procure authority from the commission by supplemental order, as specified in said Decision No. 4766, they are disregarded in considering the present application.

#### ORDER.

C. A. Brauch, sole owner of Santa Rosa, Petaluma and Sausalito Auto Stage Company, having applied to the Railroad Commission for certificate that public convenience and necessity require the operation by him of an automobile passenger service as a common carrier of passengers between Sausalito, Marin County, and Santa Rosa, in Sonoma County, under the name of Santa Rosa, Petaluma and Sausalito Auto Stage Company, and a public hearing having been held thereon and the matter having been submitted and being now ready for decision, the Railroad Commission hereby declares that public convenience and necessity require the operation by said C. A. Brauch of automobile passenger service substantially in accordance with foregoing time schedule as a common carrier of passengers between Sausalito, Marin County, and Santa Rosa, in Sonoma County, provided this declaration shall not become effective until said Brauch has secured certified permits from the boards of supervisors of the counties of Sonoma and Marin, and from the cities of Santa Rosa, Petaluma, San Rafael and Sausalito, as provided by section 3, chapter 213, laws of 1917; and provided, further, that the rights and privileges herein granted shall not be assigned or transferred unless the written consent of the Railroad Commission to such assignment or transfer has first been secured.

Dated at San Francisco, California, this thirtieth day of November, 1917.

## DECISION No. 4915.

IN THE MATTER OF THE APPLICATION OF QUINCY WESTERN RAILWAY COMPANY FOR PERMISSION TO DISCONTINUE OPERATIONS AND TO LIQUIDATE ITS ASSETS.

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Application No. 3199.

*Decided November 30, 1917.*

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BY THE COMMISSION.

**ORDER OF DISMISSAL.**

Applicant herein having this day filed with the commission its written request that the matter herein be dismissed,

*It is hereby ordered* that the application herein be and the same is hereby dismissed.

Dated at San Francisco, California, this thirtieth day of November, 1917.

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DECISION No. 4916.

PRODUCERS HAY COMPANY ET AL.

vs.

CARL ANDERSON ET AL.

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Case No. 1141.

*Decided December 1, 1917.*

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The Railroad Commission has jurisdiction over all vessels operating upon a regular schedule between points within the state of California whether upon the high seas or upon the inland waters of the state, also over all vessels operated in the public service, except those under twenty tons dead weight carrying capacity, in irregular service upon the inland waters of the state, but not vessels in irregular service between points in the state operating upon the high seas.

Rates charged by irregular water carriers, prior to their coming under the jurisdiction of the Railroad Commission, which were continually fluctuating to meet changing conditions, competition, etc., can not be considered as the regular rates of such carriers to be filed in accordance with the amended act. As there were no regular rates charged by such carriers prior to filing, the rates as filed are found to be just and reasonable and the complaint alleging that rates heretofore charged were lower than those filed with the commission, is dismissed.

*Bishop & Bahler*, by *H. H. Wade* and *L. R. Bishop*, for Complainants.  
*Ira S. Lillick*, for John Anderson, M. Barletta et al., Defendants.  
*Creed, Jones & Dall*, for Carl Anderson and Otto Dall, Defendants.

LOVELAND, *Commissioner*.

**OPINION.**

This proceeding was initiated by the Producers Hay Company and five other dealers in hay and straw, each interested in the transpor-



tation of these commodities from interior producing points to San Francisco and the local markets. The complaint is directed against twenty-four owners or operators of vessels of the schooner type, barges and craft engaged in transporting hay, straw and various commodities upon the inland waters of this state; it alleges that the rates, rules and regulations filed by these utilities are not the rates, rules and regulations which they had in effect on July 27, 1917, and that therefore they are unlawful and that they are excessive and unreasonable *per se*.

The Public Utilities Act, which became effective March 23, 1912, by certain qualifying words limited the term "common carrier," as applied to vessels, to such as were "regularly" engaged over "regular" routes between points within this state. As amended by chapter 707 of the statutes of 1917, approved May 29, 1917, section 2 (1), in so far as it applies to vessels, reads as follows:

"The term 'common carrier' when used in this act, includes \* \* \* every corporation or person, their lessees, trustees, receivers or trustees appointed by any court whatsoever, owning, controlling, operating or managing any vessel engaged in the transportation of persons or property between points upon the inland waters of this state, or regularly engaged in the transportation of persons or property for compensation upon the high seas on regular routes between points within this state. The term 'inland waters' as used in this subsection includes all navigable waters within the state of California other than the high seas."

Under subdivision (y) of the same section, as amended, the term "vessel" is defined in the following language:

"The term 'vessel' when used in this act includes every species of craft by whatsoever power operated, which is owned, controlled, operated, or managed for public use in the transportation of persons or property, except row boats, sailing boats and barges under twenty tons dead weight carrying capacity, and vessels propelled by steam, gas, fluid naphtha, electricity, or other motive power, under the burden of five tons net register."

These amendments became effective July 27, 1917. Based thereon, the commission's General Order No. 49 was issued, calling attention to the law and directing all common carriers affected to file rate schedules, including rules and regulations. In compliance with this general order defendants published and filed with the commission rate schedules, effective August 17, 1917, including charges for the transportation of hay and straw between points located on San Francisco Bay, its adjacent waters and tributaries on the one hand, and the cities of Petaluma and San Francisco on the other. These rates vary, from a minimum charge of \$1.50 per ton covering a maximum haul of 40 miles (Petaluma to San Francisco), to \$2.50 for a maximum haul of 127 miles (Sacra-

mento to San Francisco), and form the basis of attack in the complaint now under consideration.

Briefly stated, the complaint alleges: that complainants are engaged in intrastate commerce, including the receiving and shipping of hay and other agricultural products and in so doing are dependent upon defendants for transportation; that defendants are common carriers subject to the provisions of the Public Utilities Act; that defendants published and filed with the Railroad Commission certain rate schedules; that the rates shown therein for the transportation of hay and straw were not the rates charged by defendants on July 27, 1917; that the schedules published and filed by defendant carriers did not embrace the entire bay and river region as traversed by the vessels of defendants; that the rates as published and filed are unjust and unreasonable; that defendants' demurrage rule, limiting free time to 48 hours, is unjust, unreasonable and not in conformity with the previous practice of these carriers; that the present tariff of defendants is defective, for the reason that there is no provision for the diversion of cargo to other points after its arrival at San Francisco, all of which matters, including rates, rules, regulations and practices, complainants desire to have corrected to the basis of rates, rules, regulations and practices alleged to have been in effect prior to July 27, 1917. Reparation is asked for on shipments moved on or after July 27, 1917.

For answer to these allegations and demands defendants, Carl Anderson and Otto Dall, deny that they are common carriers subject to the provisions of the Public Utilities Act; that the rates filed by them are higher than the rates in effect on July 27, 1917, or that they are unjust or unreasonable; that their demurrage rule as filed differs from the practice previously in effect, or that complainants have been subjected to unjust or unreasonable charges in violation of section 13 of the Public Utilities Act.

All other defendants admit that they are common carriers and that they have filed their rates with the Railroad Commission, as required by law, but deny all other allegations made by complainants.

The case was set for public hearing at San Francisco October 16, 1917, on which date and at subsequent adjourned hearings evidence was presented. The matters involved group themselves into the following classes:

**Are all the defendants named in the complaint common carriers contemplated by the Public Utilities Act, as amended?**

**Were the defendants required to publish and file schedules showing rates, rules and regulations in effect prior to July 27, 1917, the day the amendments to the Public Utilities Act became operative?**

**Are the rates, rules and regulations as published and filed just and reasonable for the service performed?**

As cited in the opening paragraphs of this opinion, the Public Utilities Act, as originally approved and made effective March 23, 1912, covered in the classification of common carriers, only such vessels as were regularly engaged in the transportation of persons or property for compensation upon the waters of this state or "upon the high seas, over regular routes between points within this state." Obviously, so-called tramp vessels when operated without regard to route or time schedule, picking up cargo wherever available, could not be classed as common carriers under the act as then in effect. Under the amendment to the Public Utilities Act, approved May 29, 1917, subdivision (l) of section 2 was extended and broadened to include as a common carrier "any vessel engaged in the transportation of persons or property for compensation between points upon the inland waters of this state"; inland waters being defined in the following language:

"The term 'inland waters' as used in this subsection includes all navigable waters within the state of California other than the high seas."

By the same amendment section 2 (y) of the Public Utilities Act was changed to read as follows:

"The term 'vessel,' when used in this act, includes every species of water craft, by whatsoever power operated, which is owned, controlled, operated or managed for public use in the transportation of persons or property, except row boats, sailing boats and barges under twenty tons dead weight carrying capacity, and vessels propelled by steam, gas, fluid naphtha, electricity, or other motive power, under the burden of five tons net register."

It will be seen that the amended sections are confined to vessels operating on the bays, rivers, sloughs, channels and other inland bodies of water, and apply in no way to vessels operated exclusively on the high seas. As to the latter class of vessels, the commission's jurisdiction is still confined to those operated over regular routes between points within California.

These amendments became effective July 27, 1917, under the referendum provision of section 1, article IV, of the constitution of the state of California (adopted October 10, 1911), such date being 90 days after the adjournment of the legislature enacting same.

All common carriers subject to the provisions of the Public Utilities Act are required to publish and file with the Railroad Commission rate schedules as therein provided, and to enforce the same without discrimination. Section 14 (a) relating to the matter of filing rates, reads, in part, as follows:

"Every common carrier shall file with the commission and shall print and keep open to the public inspection schedules showing rates, fares, charges and classifications for the transportation

between termini within this state of persons and property from each point upon its route to all other points thereon.”

Section 17 (a) of the act prohibits a common carrier from engaging in the transportation of persons or property until its rate schedules shall have been published and filed, and subdivision (c) of the same section makes it unlawful for such common carrier to deviate, in any manner, from its schedules so filed and published. Under the foregoing provisions of the Public Utilities Act the rates which form the subject of this complaint were published and filed.

Although defendants, Anderson and Dall, claimed in their formal answer to the complaint that they are not common carriers within the meaning of the Public Utilities Act, no testimony was presented in support of this position. Their vessels fall within the tonnage limits contemplated by the amendment and, without protest, these defendants published and filed rate schedules in compliance with the commission's General Order No. 49. I am of the opinion that all defendants named herein are common carriers, subject to the provisions of the Public Utilities Act.

In support of the allegation that defendants had in effect prior to July 27, 1917, a system of rates lower than rates shown in tariffs, complainants presented Exhibit No. 10, consisting of a number of paid bills rendered by Thompson, Collis & Co. and their successor, against Scott, Magner & Miller, one of the complainants, covering service during a large part of the years 1915 and 1916. It appears from Exhibit No. 10 that the rates collected for the transportation of hay and straw were, in fact, lower in many instances than the rates shown in defendant's schedules, effective August 17, 1917. It was admitted by witnesses for defendants that the rates carried in tariffs filed with the commission are higher for some of the routes than have been charged on occasions during previous years; it is likewise in evidence that lower rates have been collected on some occasions. It is contended that from the year 1906 to July 27, 1917, a great variety of rates were charged for the transportation of hay and straw from points reached by their vessels to San Francisco and that such rates could not properly be called standard, nor did they prevail over any considerable length of time or remain constant as to any particular shipper or route. This contention, contained in defendants' answer to the complaint and supported by the testimony of their principal witness, shows, as I believe, conclusively, that a stable schedule of rates of uniform application had not at any time been in effect by defendants prior to the date their present schedules were filed with the Railroad Commission. The well-known methods employed in unregulated public service by which rates are driven to a bedrock figure based in no way upon the value or cost of the service, seems to have been no exception in the present case.

The fact of fairly constant rates shown to have been applied in the case of Scott, Magner & Miller for 1915 and 1916, as indicated by complainants' Exhibit No. 10, could at most show the condition with reference to but a small number of vessels engaged in bay and river freighting, since only eleven vessels were represented by these transactions. The Public Utilities Act, as amended by chapter 707 of the laws of 1917, brings these carriers positively under the jurisdiction of the commission, but does not require them to file any particular schedule of rates.

I am forced to the conclusion that there existed prior to July 27, 1917, no standard or constant rates for the transportation of hay and straw between the points and on the class of vessels involved in this proceeding, and that such rates as were filed by defendants in compliance with the commission's General Order No. 49 are lawful, therefore there remains for consideration only the reasonableness of the rates, rules and regulations contained in the tariffs effective August 17, 1917..

In Exhibits Nos. 1, 2 and 3, complainants seek to show by tables of comparative distances that rates charged by defendant boat lines for the transportation of hay are excessive when compared with railroad rates for like mileage. I can not agree with the contention that all-rail rates fixed upon a strictly mileage basis are comparable to the rates of water carriers operated as in the present instance, limited on some of the runs to one trip a week, and that under the most favorable weather conditions. In the case of sailing vessels an even more unfavorable showing is disclosed by the record, being two trips a month in winter from Sonoma Creek to San Francisco. Many of the channels and sloughs where defendants' boats are called upon to go are difficult of access, overhung by brush, full of snags, narrows and shallows. I do not think a mileage basis fair for this kind of water transportation. Certainly, the difficulties of the route traversed should be reflected in the rate.

Complainants presented testimony to show that the power schooner "Regenia S" and sailing schooner "Mtn. View," owned and operated by Producers Hay Company, one of the complainants, had each made profits during the years 1913 to 1917, inclusive, in service similar to that given by defendants, based upon rates which complainants contend were in effect prior to July 27, 1917. The financial results secured by these two boats, which are not common carriers and are devoted entirely to the private use of a very large hay selling company, can not properly be made a fair basis of comparison with competing vessels dependent upon tonnage received at infrequent intervals and in varying quantities.

On the other hand, according to the testimony of defendants' witnesses, a different situation exists with reference to the great majority

of the common carrier vessels engaged in this class of service. It was shown that eleven vessels out of a total of twelve operated by defendant Erikson have, in the course of five years, from April 1, 1912, to April 1, 1917, received, above operating expenses, a total of \$1,850.11, or \$370.02 per annum, which is equal to about  $\frac{3}{4}$  of 1 per cent on \$50,000.00, the estimated present value of the eleven vessels in question. A recapitulation of the operating results of the vessels under the control of Erikson for a period of five years follows:

Name of vessel	Estimated present value	Profit	Loss
Surprise -----	\$18,000 00	\$11,280 11	-----
Matilda -----	10,000 00	2,119 27	-----
H. Eppinger -----	9,000 00	1,001 95	-----
Port Costa -----	4,000 00	2,837 23	-----
Crockett -----	8,000 00	-----	\$1,625 94
Annie E. -----	3,000 00	-----	1,064 46
Margaret C. -----	2,500 00	-----	2,598 42
Nettie -----	2,000 00	859 03	-----
Montezuma -----	7,000 00	3,054 17	-----
St. Thomas -----	2,000 00	447 35	-----
Albertine -----	1,500 00	-----	688 14
H. Templeton -----	1,000 00	-----	2,581 93
	<hr/> \$68,000 00	<hr/> \$21,689 11	<hr/> \$8,558 89
Less "Surprise" -----	18,000 00	11,280 11	-----
	<hr/> \$50,000 00	<hr/> \$10,409 00	<hr/> -----
Eleven vessels -----	<hr/> \$50,000 00	<hr/> \$1,850 11	<hr/> *\$370 02

Average value of vessels, \$4,545.00.

Average annual receipts above expenditures per vessel, \$33.64.

The gasoline schooner "Surprise" has been eliminated from consideration in the above tabulations, for the reason that the showing made by this boat for the past five years is due to outside runs in the grain trade between San Francisco and Pigeon Point, and that it transported no hay or straw on the inland waters of the state.

The unfavorable showing brought out by the foregoing figures is not, as the testimony indicates, confined to the period covered by unusual increases in operating expenses, but is greatly augmented thereby. Furthermore, these figures do not take into account any allowance for insurance, employers' liability or depreciation of equipment.

The cost of supplies and equipment for use of the vessels under consideration has increased during the past few years from 90 per cent to 150 per cent; it was also in evidence that the wages of captains, engineers and crews have been advanced from 33 $\frac{1}{3}$  per cent to 75 per cent. In cases where supply contracts for distillates exist defendants have already been served with notice that substantial increases in price will take effect upon expiration of present agreements. Taxes, liability

\*Per annum.

insurance, repairs and every other necessary outlay contribute to the increased cost of operating the vessels represented in this proceeding.

A number of witnesses called by defendants, each owning or operating one or more vessels of the same class as are under the control of Eriksson, testified to the same general facts as to increased cost of operating their vessels, each, with perhaps a single exception, claiming to have failed, under rigid economy and hard work, to realize even a moderate income on its investment.

Considerable importance was attached by complainants to the fact that defendants' vessels arriving in San Francisco with cargoes of hay had, in the past, at the instance of shippers, frequently diverted parts of a consignment to other points on the San Francisco Bay without extra charge for the service. These additional hauls would in some instances be extended to points twenty miles, or even farther, beyond original destination. In extreme cases complainants thought reasonable compensation should be allowed for this service, but maintained that diversions to moderate distances beyond destination, without additional cost to shipper, should be the general rule. Witnesses for defendants stated that free hauls have frequently been made to various landings beyond San Francisco and that in such instances delays of three or four days, or longer, were not uncommon, during which time the owners of cargoes would use the vessels as warehouses, in most instances paying neither demurrage nor additional rates for diverting and distributing the hay. This custom caused unnecessary hardship to carriers and appears to have resulted in a demoralization of the service and, in some instances, to an entire discontinuance.

The subject of demurrage appeared to be of considerable concern to both parties and is covered by the following rule carried in defendants' tariffs: "Demurrage will begin after 48 hours." Complainants asked that demurrage rules be established similar to those governing rail lines, to which defendants objected, claiming that conditions are so entirely different in connection with freight cars such rules would not prove at all satisfactory either to shippers or receivers of cargoes. However, since this is a broad, general question affecting not only the parties to this proceeding, but all parties in the state of California interested in water transportation, it can not be decided upon the meager facts presented in this particular case. A proceeding has been instituted for the purpose of adopting demurrage rates and rules for vessels within the jurisdiction of the commission, at which all interested parties will be given an opportunity to be heard, to the end that a complete showing may be made upon which such demurrage rates and rules will be based.

The testimony plainly showed that there had been no uniform or regular rates charged by the carriers in question previous to the

effective date of the act giving the commission jurisdiction of such carriers. The making of rates had been a bargain and sale matter between the shippers and the carriers and it was manifestly impossible for the carriers to file such rates. They, therefore, filed a schedule of regular uniform rates which the commission investigated at the hearing, and hereby declares to be just and reasonable rates for the service performed.

I recommend that the complaint be dismissed and submit herewith the following form of order:

**ORDER.**

Producers Hay Company et al., having complained to this commission alleging that rates charged for the transportation of hay and straw by Carl Anderson and twenty-three (23) other owners and operators of vessels plying the inland waters of this state are excessive and unreasonable and not in conformity with rates which were in effect by these carriers on July 27, 1917, and a hearing having been held and the commission being fully advised in the premises,

*It is hereby ordered* by the Railroad Commission of the state of California that the complaint herein be and the same is hereby dismissed.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the state of California.

Dated at San Francisco, California, this first day of December, 1917.

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**DECISION No. 4917.**

**IN THE MATTER OF THE APPLICATION OF SNOW MOUNTAIN WATER AND POWER COMPANY FOR AN ORDER GRANTING IT FURTHER TIME IN WHICH TO COMPLY WITH THE PROVISIONS OF SECTION NO. 1, PARAGRAPH "L" OF CHAPTER NO. 600 OF THE STATUTES OF 1915.**

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**Application No. 2191.**

*Decided December 3, 1917.*

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Applicant granted an additional extension of time to and including September 30, 1918, in which to complete reconstruction work necessary under the provisions of chapters 499 and 600.

**BY THE COMMISSION.**

**FIRST SUPPLEMENTAL ORDER.**

Whereas the Railroad Commission issued an order in Decision No. 3667, Application No. 2191, page 275, Volume No. 11, Opinions and Orders of the Railroad Commission of California, granting an extension of time to the Snow Mountain Water and Power Company



within which to comply with the provisions of chapter 499, laws of 1911, as amended by chapter 600, laws of 1915, until December 31, 1917; and

Whereas the Snow Mountain Water and Power Company has now reconstructed its existing system so as to comply completely with the provisions of chapter 499, laws of 1911, as amended by chapter 600, laws of 1915, with the exception of the provisions contained in paragraph "h" of section 1 thereof; and

Whereas Snow Mountain Water and Power Company did not understand until recently that in order to fully comply with this section it would be necessary to install at all road crossings double insulators and double cross arms, as well as double strength wire in the crossing span; and

Whereas it will not be reasonable for the applicant to install such double insulators and construction until the summer of 1918 on account of the scarcity of labor and material, and the difficulties of maintaining service during the winter season; and

Whereas applicant has herein petitioned the Railroad Commission for a further extension of time within which to complete this work; and

Whereas it appears to the commission that this is not a case in which a public hearing is necessary and that the application should be granted,

*It is hereby ordered* as follows:

1. The time within which applicant shall reconstruct its existing system so as to comply completely with the provisions of chapter 499, laws of 1911, as amended by chapter 600, laws of 1915, is hereby extended to and including September 30, 1918.

2. At the times herein directed, applicant shall file with the Railroad Commission, on forms to be supplied by the Railroad Commission, progress reports showing in such detail as will be prescribed by the Railroad Commission the extent to which the necessary reconstruction work has been performed during the period covered by the report, and also the extent to which reconstruction work remains to be done in order that the property shall comply with the provisions of chapter 499, laws of 1911, as amended by chapter 600, laws of 1915.

The first report shall cover the period ending December 31, 1917, and shall be filed with the Railroad Commission within fifteen days subsequent thereto. The succeeding reports shall cover the succeeding six months periods, respectively, and shall be filed on or before the expiration of fifteen days after the termination of each such succeeding period of six months.

Dated at San Francisco, California, this third day of December, 1917.

## DECISION No. 4918.

IN THE MATTER OF THE APPLICATION OF SOUTHERN COUNTIES GAS COMPANY OF CALIFORNIA FOR AN ORDER AUTHORIZING THE ISSUANCE OF DEBENTURES AND THE EXECUTION OF AN AGREEMENT SECURING THE SAME.

Application No. 3340.

*Decided December 4, 1917.*

Applicant authorized to issue \$400,000.00 face value of its 10-year 6 per cent debentures to be sold at not less than 90, the proceeds thereof to be expended for the purposes of discharging notes and accounts payable and to reimburse treasury for capital expenditures made. In consideration of the waiving of a requirement heretofore made that applicant set aside \$50,000.00 per year for depreciation, a stipulation is required to the effect that no dividends shall be paid on outstanding stock until applicant is in a position to and has set aside such amount.

*Hunsaker & Britt and LeRoy M. Edwards, by LeRoy M. Edwards, and G. Harold Janeway, for Applicant.*

LOVELAND, *Commissioner.*

## OPINION.

In this application Southern Counties Gas Company of California asks authority to execute an agreement under which it desires to issue \$400,000.00 of 10-year 6 per cent debentures; to sell said debentures at not less than 90 per cent of their face value or pledge the same to secure a loan. The proceeds realized either from the sale or pledging of debentures applicant desires to use to refund its notes and accounts payable and provide for working capital.

Applicant reports assets and liabilities as of October 31, 1917, as follows:

*Assets.**Capital assets:**Intangible capital—*

Organization rights and franchises.....	\$36,251 82
Franchises since February 1, 1916.....	1,335 85
Total intangible capital.....	\$37,587 67

*Tangible capital—*

Baehr's inventory, February 1, 1916.....	\$3,121,774 27
Additions since .....	820,095 39
Olinda-Brea line .....	7,862 23
Total tangible capital.....	\$3,949,731 89
Total fixed capital .....	\$3,987,319 56

*Current assets:*

Materials and supplies -----	\$193,393 13
Accounts receivable -----	100,561 30
Deposits with municipalities -----	1,825 64
Cash on hand and in bank -----	34,887 72

Total current assets -----	\$330,667 79
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*Deferred charges:*

Discount on stock -----	\$758,505 76
Unamortized discount on bonds -----	125,989 42
Reorganization expenses -----	21,717 80
Taxes, insurance, etc. -----	45,678 79

Total deferred charges -----	\$951,891 77
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Total assets -----	\$5,269,879 12
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*Liabilities.*

Capital stock—common -----	\$1,500,000 00
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*Funded debt:*

First mortgage 5½ per cent bonds -----	\$3,015,000 00
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*Current liabilities:*

Notes payable -----	\$142,111 87
Accounts payable -----	361,846 49
Consumer's deposits -----	44,283 18
Interest accrued -----	1,623 58
Insurance accrued -----	1,300 00

Total current liabilities -----	\$551,165 12
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*Reserves:*

Reserve for inventory -----	\$5,499 92
Reserve for contingencies -----	14,627 22

Total reserves -----	\$20,127 14
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*Surplus:*

Capital surplus—appreciation property values -----	\$79,618 68
Earned surplus -----	103,968 18

Total liabilities -----	\$5,269,879 12
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Applicant reports that between October 31, 1917, and November 20, 1917, it paid \$57,447.37 of its accounts payable; that on the latter date it owed in the form of notes \$144,611.87 and \$303,736.06 of accounts payable, making a total current indebtedness of \$448,347.93.

By Decision No. 4880, dated November 26, 1917, the commission authorized applicant herein to issue \$79,000.00 of its first mortgage 5½ per cent bonds at not less than 85 per cent of their face value, plus accrued interest. The order of the commission provides that the proceeds from the bonds shall be used to pay notes and accounts payable. Assuming that applicant is able to sell the bonds it will be in a position to reduce its notes and accounts payable from \$448,347.93 to approximately \$381,000.00. It is for the purpose of paying and refunding

this indebtedness that applicant desires to issue \$400,000.00 of its 10-year 6 per cent debentures.

Applicant's relatively large current indebtedness appears to be due primarily to the rapid growth of its business; to the failure to foresee or at least to adequately provide for the financing of the growth of its business at the time when the company was refinanced in 1916; to the acquisition of a large stock of materials and supplies; to discount on securities issued and to the restriction in applicant's deed of trust limiting the issue of bonds to an amount equal to 80 per cent of the cost of improvements. The trust deed restriction I regard as proper and in the interest of the investor, but of necessity it implies that provision must be made to finance capital expenditures against which no bonds may be issued.

On October 31, 1917, applicant reported materials and supplies on hand representing a cost of \$193,393.17. The testimony shows that the company has purchased a large stock of materials and supplies in anticipation of an increase in price and that under normal conditions it will be able to properly take care of its business by keeping \$150,000.00 of materials and supplies in stock. By the issue of the 10-year debentures and the use of the proceeds to pay notes and accounts payable, applicant, for all practical purposes, will pay for its materials and supplies on hand. By paying the notes and accounts payable representing materials and supplies, applicant is providing itself with working capital. If it hereafter develops that applicant will reduce its material and supply account, then the amount by which such account is reduced should be expended to redeem debentures or used to pay for capital expenditures against which no bonds can be issued under applicant's deed of trust.

By Decision No. 4439, dated July 3, 1917, the Railroad Commission authorized applicant herein to issue \$400,000.00 of debentures. It now reports that it has been unable to sell the debentures in accordance with the terms and conditions of the order in Decision No. 4439.

Applicant asks the commission to waive the requirement of setting up a depreciation reserve until a later date. The officials of the company recognize that depreciation is occurring but contend that it is inadvisable for the company to establish, at this time, a reserve for accrued depreciation. Applicant alleges that from June 1, 1916, to October 31, 1917, it has expended for repairs the sum of \$86,606.41, and that a substantial part of \$86,606.41 represents expenditures which could have been made out of the depreciation reserve. I am inclined to accept applicant's allegations and find that the engineering department and stock and bond department of the commission agree with my opinion.

Under the facts of this case and because of the **present abnormal** conditions, I am willing to recommend that unless **applicant's earnings** during 1918 show a material increase, it will not be **necessary for it** to set up a reserve for accrued depreciation. This recommendation should not be interpreted as a waiver of the **requirement to set up a** depreciation but merely a postponement of the time when such a reserve should be set up. Moreover, the recommendation is made to the commission with the understanding that applicant will stipulate that it will pay no dividend on its outstanding stock until it has made proper provision for depreciation.

As said, if applicant is unable to sell its debentures, it desires authority to pledge the same to secure the payment of a two or three year note issue, the proceeds of which will be used to pay current indebtedness. It is evident from the testimony that applicant has not worked out the detail relative to the pledging of the debentures. If it is unable to sell them and hereafter furnishes the commission with the necessary detail, I will be glad to give this matter further consideration.

The agreement under which the debentures are to be issued is to be substantially in the same form as the agreement attached to Application No. 2974 and marked Exhibit "B." The debentures which applicant proposes to issue do not constitute a lien upon any property. They are in effect 10-year 6 per cent promissory notes to be issued under the terms and conditions of a proposed debenture agreement to be executed to Central Trust Company of Illinois.

I herewith submit the following form of order:

#### ORDER.

Southern Counties Gas Company of California having applied to the Railroad Commission for authority to issue \$400,000.00 of 10-year 6 per cent debentures and for authority to execute a debenture agreement, and a public hearing having been held and it appearing to the Railroad Commission that the money, property or labor to be procured or paid for by the issue of the debentures is reasonably required for the purpose or purposes specified in the order and that the expenditures for such purpose or purposes are not in whole or in part reasonably chargeable to operating expenses or to income,

*It is hereby ordered* that Southern Counties Gas Company of California be and it is hereby authorized to execute to Central Trust Company of Illinois a debenture agreement substantially in the same form as the agreement marked Exhibit "B" and attached to Application No. 2974.

*It is hereby further ordered* that Southern Counties Gas Company of California be, and it is hereby, authorized to issue \$400,000.00 of its

10-year 6 per cent debentures upon the following conditions and not otherwise:

1. Applicant shall realize in cash from the sale of debentures not less than 90 per cent of their face value plus accrued interest.

2. Before this order shall become effective, Southern Counties Gas Company of California shall file with the Railroad Commission a duly authorized stipulation in form satisfactory to the Railroad Commission in which it agrees that it will not declare any dividend on its outstanding capital stock until it has transferred to a reserve for accrued depreciation at least \$50,000.00 of its earned surplus and thereafter unless otherwise ordered by the commission apply annually not less than \$50,000.00 of its earnings to depreciation.

3. The proceeds from the sale of \$325,000.00 face value of debentures shall be used by applicant to pay or refund the notes and accounts payable set forth in Exhibit "1" Third Supplemental Application No. 2974.

4. The proceeds from the sale of \$75,000.00 face value of debentures shall be used by applicant to reimburse its treasury for income expended for capital purposes and after such reimbursement to be used to pay notes and accounts payable listed in Exhibit "2," Third Supplemental Application No. 2974, or notes and accounts payable listed in Exhibit "1," Third Supplemental Application No. 2974.

5. On or before the twenty-fifth day of each month, applicant shall file with the commission a statement showing by districts the cost of materials, supplies and merchandise on hand at the close of the preceding month, and be prepared when called upon to furnish the commission with an inventory of said materials, supplies and merchandise.

6. The approval herein given of said debenture agreement is for the purpose of this proceeding only and an approval in so far as this commission has jurisdiction under the terms of the Public Utilities Act and is not intended as an approval of said debenture agreement as to such other legal requirements to which said debenture agreement may be subject.

7. Southern Counties Gas Company of California shall keep separate, true and accurate accounts showing the receipt and application in detail of the proceeds of the sale of the debentures herein authorized to be issued, and on or before the twenty-fifth day of each month the company shall make verified reports to the Railroad Commission stating the sale or sales of said debentures during the preceding month, the terms and conditions of the sale, the moneys realized therefrom, and the use and application of such moneys, all in accordance with this commission's General Order No. 24, which order in so far as applicable, is made a part of this order.

8. The authority hereby granted to issue debentures shall not become effective until applicant has paid the fee prescribed by the Public Utilities Act.

9. The authority hereby granted to issue debentures shall apply only to such debentures as may be issued on or before June 30, 1918.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the state of California.

Dated at San Francisco, California, this fourth day of December, 1917.

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DECISION No. 4919.  
McCLOUD RIVER RAILROAD COMPANY  
*vs.*  
SOUTHERN PACIFIC COMPANY.

Case No. 1088.

*Decided December 4, 1917.*

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BY THE COMMISSION.

**ORDER OF DISMISSAL.**

Complainant in the above entitled proceeding having made written request to this commission that the above-entitled proceeding be dismissed,

*It is hereby ordered* that the above-entitled proceeding be and the same is hereby dismissed.

Dated at San Francisco, California, this fourth day of December, 1917.

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DECISION No. 4920.  
LOS ANGELES PRESSED BRICK COMPANY  
*vs.*  
THE ATCHISON, TOPEKA AND SANTA FE RAILWAY COMPANY AND  
SOUTHERN PACIFIC COMPANY.

Case No. 1162.

*Decided December 4, 1917.*

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BY THE COMMISSION.

**ORDER OF DISMISSAL.**

Complainant in the above-entitled proceeding having, on November 30, 1917, made written request to this commission that the above-entitled proceeding be dismissed,

*It is hereby ordered* that the above-entitled proceeding be and the same is hereby dismissed.

Dated at San Francisco, California, this fourth day of December, 1917.

## Decision No. 4921.

IN THE MATTER OF THE APPLICATION OF RALPH E. WILLIAMS FOR  
CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY TO  
OPERATE AN AUTOMOBILE PASSENGER AND EXPRESS SERVICE  
BETWEEN IDYLLWILD AND SAN JACINTO.

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Application No. 3355.

*Decided December 4, 1917.*

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BY THE COMMISSION.

**ORDER.**

Ralph E. Williams having applied for a certificate declaring that public convenience and necessity require the operation by him of an automobile passenger, freight and express transportation service between Idyllwild and San Jacinto and intermediate points, and the commission being duly advised and believing that this is not a case in which a public hearing is necessary, and that the application should be granted,

*It is hereby declared* that public convenience and necessity require the operation by Ralph E. Williams of an automobile passenger, freight and express transportation service between Idyllwild and San Jacinto and intermediate points;

**Provided**, that this declaration shall not become effective until said Williams has procured from the Railroad Commission a supplemental order herein reciting that said Williams has filed herein certified copies of permits from the county of Riverside and the city of San Jacinto and all other incorporated cities through which applicant proposes to operate, as provided by section 3, chapter 213, laws of 1917; and

**Provided further**, that the rights and privileges herein granted shall not be assigned or transferred unless the written consent of the Railroad Commission to such assignment or transfer shall have first been secured; and

**Provided further**, that no vehicle may be operated under this certificate unless such vehicle is owned by the applicant herein or is leased by such applicant under a contract or agreement on a basis satisfactory to the Railroad Commission.

Dated at San Francisco, California, this fourth day of December, 1917.



## DECISION No. 4922.

IN THE MATTER OF THE APPLICATION OF NELLIE WILLIAMS AND DENNY-BARR COMPANY FOR AN ORDER AUTHORIZING THE SALE AND PURCHASE OF THE WATER SYSTEM SUPPLYING THE TOWN OF CALLAHAN, SISKIYOU COUNTY, CALIFORNIA, WITH WATER.

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Application No. 3273.

*Decided December 4, 1917.*

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BY THE COMMISSION.

**ORDER.**

Nellie Williams having applied to this commission for authority to convey to Denny-Barr Company certain water utility property used to supply the town of Callahan, Siskiyou County, California, the transfer to be made in accordance with the form of deed attached to the application herein and marked Exhibit "D," wherein the property to be conveyed is described as follows:

"A tract of land twenty-five feet square in lot five of section 21, township forty north, range eight west, Mount Diablo Meridian, located about twelve and twenty-seven hundredths chains in an easterly direction from the quarter-section corner on the west line of said section twenty-one and about one chain north of the center line of said section, said piece of land being heretofore and now used as a site for the powder house belonging to said party of the second part; together with a right of way for a wagon road to said powder house.

"Also all their right, title and interest in and to the present water works supplying the town of Callahan with water, together with all reservoirs, reservoir sites, pipe lines used in connection therewith, together with a right of way six feet in width over all lands belonging to said parties of the first part, or either of them, together with the right to enter upon the property of the said parties of the first part at any time for the purpose of repairing said pipe line.

"Together with all and singular the tenements, hereditaments and appurtenances thereunto belonging or in anywise appertaining, and the reversion and reversions, remainder and remainders, rents, issues and profits thereof."

And it appearing to the commission that this is not a case in which a public hearing is necessary and that the application should be granted,

*It is hereby ordered* that the application herein be and the same is hereby granted upon the following conditions:

1. The authority herein granted to convey said property shall apply only to such property as may be conveyed on or before February 28, 1918.

2. The consideration paid for said property herein authorized to be transferred shall not be taken before this commission, or any other public body, as representing for rate fixing or other purposes the value of the property transferred.

3. After conveyance is made, in accordance with the authority granted in this order, a copy of such conveyance shall, within ten (10) days thereafter be filed with the Railroad Commission.

4. The authority herein granted for the transfer of said property to Denny-Barr Company shall not become effective unless said company shall file with the Railroad Commission a stipulation duly authorized by its board of directors agreeing to take said public utility property and operate the same as a public utility, furnishing as adequate and extensive service as is furnished by the present owner.

Dated at San Francisco, California, this fourth day of December, 1917.

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DECISION No. 4923.

IN THE MATTER OF THE APPLICATION OF INTERSTATE TELEGRAPH COMPANY FOR AN ORDER AUTHORIZING IT TO INCREASE ITS RATES ON FOURTEEN TELEPHONES, INCLUDED IN THE BISHOP EXCHANGE, FROM ONE DOLLAR SEVENTY-FIVE CENTS TO THREE DOLLARS PER MONTH; AND ON THREE TELEPHONES, INCLUDED IN SAID EXCHANGE, FROM TWO DOLLARS FIFTY CENTS TO THREE DOLLARS PER MONTH; AND ON ONE TELEPHONE, INCLUDED IN SAID EXCHANGE, FROM TWO DOLLARS TO THREE DOLLARS PER MONTH.

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Application No. 3015.

*Decided December 4, 1917.*

Applicant having made extensions of its line partly at the expense of the consumers served thereby under an agreement by which such amounts advanced by consumers would be returned through reductions in their monthly bills, now applies for permission to establish its regular rates to such consumers, the agreement having expired, and upon a showing that it is at present operating at a loss, application granted, provided that applicant may continue deviations from its regular rates to such classes of patrons as were permitted to receive same under prior rulings of the commission.

*I. B. Potter*, for Applicant.

*William Ritchie, Frank A. Campbell and George Arcularius*, for Protestants.

By THE COMMISSION.

OPINION.

Interstate Telegraph Company, applicant in this proceeding, owns and operates a telephone system in portions of Inyo, Kern and San

Bernardino counties in this state, and in portions of Nye and Esmeralda counties in the state of Nevada. Its principal exchange is at Bishop, Inyo County, from which exchange it furnishes telephone and telegraph service within the town of Bishop and tributary territory, including what is known as Round Valley. During or about the year 1906, applicant extended its lines from Bishop into Round Valley, a distance of about twelve or fourteen miles. The cost of constructing these extensions was borne partly by residents of the valley, who were provided with service, and partly by applicant. In return for providing a portion of the cost of construction, these parties were allowed rates which were lower than they would have been required to pay had they not contributed to this cost, and which are lower than the rates which other patrons having similar service now pay. At the time when these extensions were made, a contract was entered into between the parties providing for the rates herein referred to. This contract having since expired, and applicant being unable under the provisions of the Public Utilities Act of this state to increase these rates without the authority of the Railroad Commission, it is now petitioning the Railroad Commission for authority to apply its so-called "standard" rates to each of these patrons.

Applicant's rate schedule for Bishop exchange, as filed with the Railroad Commission, provides various rates for various classes of service within the town of Bishop, and other rates for service, varying according to distance from the central exchange. These distances are fixed by zones, the first zone being from five to eight miles and the next beyond eight miles from the central exchange. The patrons who would be affected by the proposed increases are located in this eight mile zone. The rate which applicant's filed schedule provides for this zone is \$3.00 per month for party lines, classed as "Ranch Lines." Of the patrons within this zone and subject to the proposed increases (one having discontinued service since the petition was filed), thirteen are now paying \$1.75 per month each, three are now paying \$2.50 per month each and one is now paying \$2.00 per month.

A hearing of the petition was held before Examiner Harry A. Encell at Bishop on August 22, 1917. Considerable objection to the proposed increases developed at the hearing, the objection, however, for the most part being based not so much upon the rate increases proposed as upon unsatisfactory service which applicant has heretofore provided. Applicant admits that the service has not at all times been of the best, due in part at least to conditions temporarily beyond its control, but has given assurance that steps will at once be taken to correct the difficulties which have given rise to such complaint. We feel that applicant is endeavoring to properly and efficiently serve its patrons, and that there will be no future cause for service complaints. How-

ever, should these conditions continue, the commission will take such action as may appear to be necessary.

Applicant represents that its Bishop exchange is now being operated at a loss. The amount of increased revenue which it would realize from the increases herein proposed would not be sufficient to overcome the deficit at which it claims to be operating, nor can it be accurately determined how much of this deficit, if any, may be due to the operation of the particular lines involved in this proceeding, because of the difficulty of allocating items of operating expenses to particular portions of equipment or to particular classes of service. The proper course to pursue would be to determine whether all of applicant's rates, taking its business as a whole, are just and reasonable, but the commission is not asked in this proceeding to establish a general schedule of rates, nor is applicant at present prepared to undertake such procedure. It is clear that discrimination now exists between these particular patrons and others having the same class of service who are paying so-called standard rates. This discrimination should be removed, but the fact was admitted by applicant at this hearing that there are other cases of discrimination existing between others of its patrons who are not parties to this proceeding. The granting of this application would not, therefore, remove all present cases of discrimination, and, since this petition has reference only to the rates of patrons located in Round Valley, other patrons who are now paying other than the so-called "standard" rates were not given notice of any contemplated rate increases.

There are eight cases in which other than "standard" rates now apply in which notice of possible rate changes was not given prior to this hearing, as follows:

	Present rate	Standard rate
Telephone in lodge hall-----	\$3 00	\$4 00
W. R. Ford-----	2 00	2 50
J. W. Henderson-----	2 00	2 50
D. Delaney -----	2 00	2 50
Harry Shaw -----	2 50	2 75
Hampton Ranch -----	2 75	3 25
Southern Pacific Company (Laws) -----	3 00	2 50
Southern Pacific Company (Kearsage) -----	5 00	6 75

With the exception of the lodge hall and the Southern Pacific Company, the applicant has since the hearing obtained and forwarded to the Railroad Commission the written consent of these parties to the payment of "standard" rates and waiving their right to a hearing by the commission. As to the lodge hall, the rate now being charged is a concession or deviation from published rates as these terms are defined by the commission in Decisions No. 421 and No. 596, Case No. 293, Opinions and Orders of the Railroad Commission, Volume 2,

pages 73 and 671, and, as provided in these decisions, is not included among the classes of cases in which telephone utilities are permitted to allow deviations from published schedules of rates. As to the rates now charged Southern Pacific Company, one only would be subject to an increase if the published rate were applied, the other now being higher than the published rate and subject to a reduction.

Included with the Round Valley patrons to whom applicant is asking authority to charge published rates is the Forest Service, United States Department of Agriculture. For this service, applicant now is charging a rate of \$2.00 per month, the subscriber owning the telephone instrument. The various departments of the federal government are included among those classes of cases in which telephone utilities are permitted, if they so desire, to charge less than published rates. Accordingly, applicant may in this case continue the present rate if it so desires, but if it does not desire to do so it should either replace the telephone instrument now in use and owned by the Forest Service with one of its own or arrange with the Forest Service for such deduction from the published rate in return for the use of the present instrument as may be reasonable and proper.

Under the circumstances, and without passing upon the final question as to the reasonableness of applicant's rates, and since, for the purposes of this proceeding, applicant's showing as to operating loss may be considered sufficient, it would not appear to be unreasonable to permit applicant to remove all existing discrimination by the application of published rates to all of its patrons, except as deviations are permitted by Decisions No. 421 and No. 596, above referred to.

#### ORDER.

Application having been filed with the Railroad Commission by Interstate Telegraph Company for an order authorizing it to increase its rates on fourteen telephones, included in its Bishop exchange, from \$1.75 to \$3.00 per month; and on three telephones, included in said exchange, from \$2.50 to \$3.00 per month; and on one telephone, included within said exchange, from \$2.00 to \$3.00 per month; and a public hearing having been held, and it appearing to the Railroad Commission that to the extent set forth in the preceding opinion this application should be granted; and it appearing further, as specifically set forth in the preceding opinion, that others of applicant, Interstate Telegraph Company's patrons are now allowed preferential and discriminatory rates and that discrimination should be removed,

*It is hereby ordered* as follows by the Railroad Commission of the state of California:

That to the extent set forth in the preceding opinion, Interstate Telegraph Company, applicant herein, be and it is hereby permitted to

charge and collect from each of its patrons its published schedule of rates heretofore filed with the Railroad Commission;

Provided, that the applicant herein may, if it so desires, continue in effect such deviations from its published schedules, if any, as may now be in effect, as to those classes of patrons to whom deviations are permitted by the provisions of Decisions No. 421 and No. 596, Case No. 293, heretofore approved by this commission.

The order herein to be and become effective from and after January 1, 1918.

Dated at San Francisco, California, this fourth day of December, 1917.

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DECISION No. 4924.

IN THE MATTER OF THE APPLICATION OF INGLEWOOD WATER COMPANY FOR AN ORDER AUTHORIZING THE ISSUE OF ITS TWO NOTES FOR TWENTY THOUSAND FORTY-ONE DOLLARS AND ELEVEN CENTS AND FORTY-SIX THOUSAND SEVEN HUNDRED SIXTY-TWO DOLLARS AND SIXTY-ONE CENTS, RESPECTIVELY.

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Application No. 3251.

*Decided December 5, 1917.*

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Applicant having expended certain sums from its treasury for proper capital purposes, is authorized to issue two notes aggregating \$4,180.85 to reimburse treasury with the proceeds thereof and thereafter to use such money for the purpose of paying interest accrued on outstanding obligations.

BY THE COMMISSION.

**FIRST SUPPLEMENTAL ORDER.**

Whereas the Railroad Commission in Decision No. 4804, dated October 31, 1917, authorized Inglewood Water Company to issue for refunding purposes a three-year 6 per cent note to Charles Lloyd in the principal sum of \$17,254.66, and a three-year 6 per cent note to Centinela Land Company in the principal sum of \$40,260.85; and

Whereas this commission deferred consideration of applicant's request for permission to issue notes in the principal sum of \$9,288.21 for the purpose of paying accrued interest on the above obligations, until applicant had submitted specific statements showing the amount of earnings invested in capital account during the period when such interest had accrued and had also submitted statements showing the amount of earnings during said period available for capital expenditures; and

Whereas applicant has now represented to this commission that by arrangement with two of its stockholders it will be able to liquidate certain accounts receivable and apply the same upon the amount due

tor accrued interest, thereby reducing the amount of interest due Charles Lloyd for the period from January 1, 1916, to October 1, 1917, from \$2,786.45 to \$1,442.20, and reducing the amount due Centinela Land Company for the same period from \$6,501.76 to \$3,365.16, making a total of accrued interest amounting to \$4,807.36; and

Whereas applicant has now submitted to this commission a statement showing cash expenditures for capital purposes from January 1, 1916, to October 1, 1917, in the total sum of \$8,448.48 and has also submitted a statement of its earnings and expenses from August 31, 1917, to October 1, 1917; and

Whereas it appears from said statements and from the statements heretofore filed with this commission that applicant has invested in plant out of earnings between January 1, 1916, and October 1, 1917, a sum in excess of the \$4,807.36 of interest accrued between said dates on its notes to Charles Lloyd and Centinela Land Company, and it appearing to this commission that upon the showing thus made, applicant may be permitted to issue a three-year 6 per cent note to Charles Lloyd in the principal sum of \$1,442.20 and to Centinela Land Company in the principal sum of \$3,365.16, and it appearing further that the moneys, property, or labor to be procured or paid for by such issue is reasonably required for the purpose specified in the order, and that such purpose is not in whole or in part reasonably chargeable to operating expenses, or to income,

*It is hereby ordered* that Inglewood Water Company be and it is hereby granted authority to issue a three-year 6 per cent note to Charles Lloyd for the principal sum of \$1,442.20 and a three-year 6 per cent note to Centinela Land Company for the principal sum of \$3,365.16; or add these sums to the amounts of the respective notes authorized to be issued by Decision No. 4804, dated October 31, 1917.

The authority herein granted is granted upon the following conditions, and not otherwise:

1. The notes herein authorized to be issued shall be issued at not less than the face value thereof.

2. The proceeds of the note herein authorized to be issued to Charles Lloyd shall be used to reimburse applicant's treasury for a portion of the capital expenditures made out of income during the period from January 1, 1916, to October 1, 1917, and thereafter said moneys shall be used to pay interest accrued on a note to Charles Lloyd dated December 31, 1912, which note applicant was authorized to refund by Decision No. 4804.

3. The proceeds of the note herein authorized to be issued to Centinela Land Company shall be used to reimburse applicant's treasury for a portion of the capital expenditures made out of income during the period from January 1, 1916, to October 1, 1917, and thereafter said

moneys shall be used to pay interest accrued on a note to Centinela Land Company, dated December 31, 1912, which note applicant was authorized to refund by Decision No. 4804.

4. The authority herein granted applicant to issue notes is conditioned upon the liquidation of \$4,480.85 of applicant's accounts receivable and the application of the proceeds thereof to payment of a portion of the accrued interest due Charles Lloyd and Centinela Land Company, as outlined in a letter to this commission from applicant dated November 13, 1917.

5. Inglewood Water Company shall keep separate, true and accurate accounts showing the receipt and application in detail of the proceeds of the notes herein authorized to be issued; and on or before the twenty-fifth day of each month the company shall make verified reports to the commission stating the disposition of the notes herein authorized to be issued and of the proceeds of each thereof, and in this and all other respects applicant shall comply fully with this commission's General Order No. 24, which order in so far as applicable is made a part of this order.

6. The authority herein granted to issue notes is conditioned upon the payment by applicant of the fee prescribed by the Public Utilities Act.

7. The authority herein granted to issue notes shall apply only to such notes as may be issued on or before March 1, 1918.

Dated at San Francisco, California, this fifth day of December, 1917.

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DECISION No. 4925.

IN THE MATTER OF THE APPLICATION OF C. N. SANSOME FOR A  
CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY TO  
OPERATE A STAGE LINE BETWEEN TAFT AND MARICOPA.

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Application No. 3316.

*Decided December 6, 1917.*

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*Chas. Del Bondio*, for Applicant.

*H. H. Bell*, for Cooley Stage Line, Protestant.

By THE COMMISSION.

**OPINION.**

A public hearing upon above application to operate passenger stage service between Taft and Maricopa, both in Kern County, was held by Examiner Westover at Taft on November 17, 1917, at which it appeared from the testimony that applicant has been operating said stage service since about October, 1915.



Chapter 213, laws of 1917, providing that transportation companies as defined therein must secure certificate of public convenience and necessity from the Railroad Commission before beginning operation and also procure the permits described therein from the local governing bodies in the territory to be served, does not require that such authority be procured by those operating such service in good faith prior to May 1, 1917. The application should, therefore, be dismissed.

**ORDER.**

A public hearing having been held upon the above application and it appearing therefrom that applicant has been operating said stage line since October, 1915, and therefore, that the law does not require applicant to procure the certificate applied for,

*It is hereby ordered* that said application be and it is hereby dismissed.

Dated at San Francisco, California, this sixth day of December, 1917.

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DECISION No. 4926.

CITY STREET IMPROVEMENT COMPANY

*vs.*

SOUTHERN PACIFIC COMPANY AND PENINSULAR RAILWAY COMPANY.

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Case No. 1122.

*Decided December 6, 1917.*

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- A rate of 25 cents on crushed rock and sand, San Jose to various points reached by Peninsular Railway, is not excessive when compared with a rate of 16½ cents, quarry producing points to San Jose, in that the movements from the quarries are handled in extremely large quantities and accordingly entitled to the lower rate, such portion of complaint dismissed.
- A misquotation or a misunderstanding as to a rate applicable between two points can not be urged by shippers as a basis for reparation as the law charges all parties with a knowledge of the rates from which neither the shipper nor the carrier can deviate.
- A rate of 70 cents per ton on bituminous rock San Jose to points on Peninsular Railway is found to be excessive when compared with a 50 cent per ton rate contained in defendant's tariffs and applying on a number of commodities of greater value. Rate of 50 cents per ton bituminous rock, carloads minimum weight 60,000 pounds, San Jose to Group A stations on line of Peninsular Railway established and complainant is found to be entitled to reparation of the difference between the 50 cent rate and the 70 cent rate heretofore collected on shipments moving during the period July 1, 1916, to March 21, 1917.

*Bishop & Bahler*, by *L. R. Bishop* and *L. M. Wade*, for Complainant.  
*S. F. Leib*, for Peninsular Railway Company.

*George D. Squires*, for Southern Pacific Company.

LOVELAND, *Commissioner*.

OPINION.

Complainant is a corporation engaged in the general contracting business, constructing streets, roads and wharves, with offices at San Francisco.

By complaint filed July 28, 1917, it alleges that the rates charged by defendants for the transportation of crushed rock, sand and bituminous rock from various points on the Southern Pacific Company's lines to points on the Peninsular Railway Company were unreasonable. Reparation is asked for on shipments that moved during the period July 1, 1916, to March 31, 1917.

The shipments moved over the Southern Pacific Company to San Jose, thence to destinations, Meridian, Cupertino and Saratoga over the Peninsular Railway. No joint rates were applicable and charges were collected at combination rates based over San Jose. It will be unnecessary to here state the rates of the Southern Pacific Company from the different points of origin to San Jose, for the reason that complainant made no showing that this factor, in the amount charged, was excessive or unreasonable. The issue, therefore, relates only to the reasonableness of the local charges assessed by the Peninsular Railway, or to the establishment of through joint rates.

Complainant sought to show that the Peninsular Railway's local commodity rate of 25 cents per ton on crushed rock and sand from San Jose to the different destinations was unreasonable as compared with a rate of 16 $\frac{2}{3}$  cents per ton from the quarry producing points, Bell, Campbell and Stanfield, to San Jose and other stations in what is termed the Group "A" district.

The contention that the 25 cent rate is unreasonable as compared with the 16 $\frac{2}{3}$  cent rate does not seem to be well founded. Complainant's comparison is open to criticism, inasmuch as it loses sight of the fact that the crushed rock moving from the quarries is handled in large quantities. The traffic manager for this defendant testified that the 16 $\frac{2}{3}$  cent rate was established many years ago to create tonnage and to assist in the building of good highways, the theory then being that with good roads the country would rapidly develop, to the great advantage of carriers. This was before the advent of the automobile, which has greatly changed the situation and, today, instead of securing larger revenues because of good roads, the same have steadily decreased. The earnings per car from this 16 $\frac{2}{3}$  cent rate are meager, ranging from \$4.58 for a minimum load of 55,000 pounds to \$9.16 for the maximum load of 110,000 pounds. It was the opinion of defendant's witness that this rate did not meet the operating expenses. Further, it was

shown that in order to facilitate the handling of rock and sand defendant permitted this complainant to unload at convenient points on its double track between Meridian and Cupertino for a distance of about four miles, thus reducing team and auto haulage charges to the highway, where the material was used.

It has not been shown that the rate of 25 cents on crushed rock and sand is either excessive or unreasonable as compared with the 16 $\frac{3}{4}$  cent rate from the quarry producing points, for rates in one direction, under the conditions here existing, may properly be higher than in the other. Neither was it shown that the rate is excessive *per se*, nor that the combination of the rock and sand rates on San Jose make an excessive or unreasonable through charge. This part of the case will be dismissed.

The record discloses no previous movement of bituminous rock from San Jose to points on the Peninsular, therefore there was no demand for a commodity rate. In the absence of a commodity rate the Western Classification rates bituminous asphalt rock Class D, in carloads, minimum weight 40,000 pounds applied; this created a rate of 70 cents per ton from San Jose to the points in question.

Complainant submitted an exhibit showing that the rate on bituminous rock from Godola to points on the Southern Pacific is the same for greater distances than the rate charged by the Peninsular for its short haul from San Jose and, by the testimony of a witness, urged that a through joint rate should not exceed \$1.00 per ton. The shipments of bituminous rock comprised some 2,500 tons and were used in connection with a contract entered into with the county of Santa Clara. Complainant's witness alleges that the contract was based on a through rate of 70 cents, Godola to Meridian, which rate, he understood, could be applied, same being the published rate Godola to San Francisco via the Southern Pacific Company. While complainant may have suffered a loss because of a misunderstanding of a rate or a misquotation of a rate, such mistakes can not be urged as a basis for reparation, the law charging all parties with a knowledge of the rates from which neither the shipper nor the carrier can deviate.

Defendant Peninsular Railway submitted numerous comparisons to illustrate that the rate in question is on a parity with rates for similar distances via electric lines in California and that none of the carriers mentioned in the exhibit named commodity rates for this article. The apparent purpose of the comparisons for the most part is to show that the Class D rate is reasonable. It is to be noted, however, that the Peninsular carries in its Local Freight Tariff No. 4, C. R. C. No. 15, many carload commodity rates of 50 cents per ton between its Group A stations, which include San Jose; among these commodities will be found box material, cereals, cement, fruit, salt, sulphur, coal and oils.

Said defendant's Exhibit B is a statement of its income account for seven months, ending July 31, 1917; the operating income, after payment of taxes, shows a loss of \$4,702.56, while the total loss, after deductions for interest on funded and unfunded debts and other miscellaneous debits, shows a gross income loss of \$149,696.55 for the seven months' period. The company's total corporate deficit as of July 31, 1917, was \$1,368,403.87, a rather difficult financial situation for a railroad with only sixty-four miles of track.

Upon all the facts I find that the rate attacked for the transportation of bituminous rock is excessive and discriminatory as compared with other commodity rates in effect between the same points on defendant's line, these commodities being of greater value than the bituminous rock.

My conclusion is that, under the circumstances, a just and reasonable rate for the transportation of bituminous rock, in earloads, from San Jose to Group A stations on the Peninsular Railway is 50 cents per ton, with a minimum weight of 60,000 pounds; that complainant, the City Street Improvement Company, made shipments at 70 cents per ton, the rate found to be excessive and discriminatory; that it has been damaged to the extent that the charges paid exceeded the charges that would have accrued at the rate herein found reasonable, and that it is entitled to reparation.

The exact amount of reparation due can not be determined on the present record, and complainant should prepare a statement showing full details of each shipment and the amount of reparation due, which statement should be presented to defendant for verification and payment. If parties can not agree as to the amount the facts may be presented to the commission for an order awarding the specific amount of reparation.

I submit the following form of order:

#### ORDER.

This case having come on regularly for hearing and the commission being fully advised in the premises,

*It is hereby ordered* that the Peninsular Railway Company publish and file a tariff with this commission, to become effective within twenty days from the date of this order, showing a rate of 50 cents per ton of 2,000 pounds on bituminous rock, earloads, minimum weight 60,000 pounds, from San Jose to defendant's Group A stations, which rate is found to be just and reasonable, in lieu of the present rate of 70 cents per ton, which is found to be excessive and discriminatory.

*It is further ordered* that the Peninsular Railway Company refund to the City Street Improvement Company, as reparation, all charges collected in excess of 50 cents per ton on shipments of bituminous rock

moved from San Jose to the points in question July 1, 1916, to March 31, 1917.

In the event that the parties to this proceeding are unable to agree upon the exact amount of the reparation under the order, they may, within thirty days from the date hereof, report that fact to the commission, whereupon the commission will issue a supplemental order fixing the exact amount due.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the state of California.

Dated at San Francisco, California, this sixth day of December, 1917.

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DECISION No. 4927.

IN THE MATTER OF THE APPLICATION OF MOUNT TAMALPAIS AND  
MUIR WOODS RAILWAY FOR AN ORDER AUTHORIZING IT TO  
ABANDON THE OPERATION OF ALL OF ITS LINES FROM NOVEM-  
BER 1 TO MARCH 1 OF EACH YEAR.

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Application No. 3272.

*Decided December 6, 1917.*

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Applicant, operating a scenic railway from Mill Valley to the top of Mount Tamalpais with a branch line to Muir Woods, is authorized to discontinue operation each year during the period November 1 to March 1, there being no public necessity for the operation of such line; it is, however, denied permission to discontinue, for the same period, its local service running from Mill Valley to Lee Station, such line being used daily by residents adjacent thereto and there being no other available transportation facilities.

*Thomas, Beedy & Lanagan*, by *William Thomas*, for Applicant.

*H. C. Symonds*, town attorney, for town of Mill Valley, Protestant.

*J. F. Bartnett*, for Mill Valley Business Men's Association, Protestant.

*F. A. Burden*, for Citizens' Committee, Protestant.

*A. L. Whittle*, for certain property owners, Protestants.

*GORDON*, Commissioner.

OPINION.

Applicant in this proceeding asks for an order of the Railroad Commission authorizing the suspension of all operation on all its lines from November 1st until March 1st of each year, alleging that it is impossible to operate during such period of each year except at a serious financial loss.

A public hearing was held at Mill Valley on November 9, 1917, the matter was duly submitted and is now ready for decision.

Mount Tamalpais and Muir Woods Railway operate from the Northwestern Pacific Railroad station at Mill Valley to the summit of Mount Tamalpais with a branch line to Muir Woods. A local service is also operated over the main line through Blythedale Canyon to the station of Lee street, a distance of 1.12 miles.

On November 30, 1915, the Railroad Commission under Decision No. 2944 in Application No. 1898 made its order authorizing a reduction of schedule to a minimum of one round trip daily during the winter season between Mill Valley and the summit of Mount Tamalpais, and establishing a schedule of operation on the so-called "Lee Street Local" line.

It is now claimed that the operation of the entire line during the winter months is conducted at a loss, and the following record of receipts and expenditures was introduced as an exhibit at the hearing:

November to February, inclusive	Operating revenue	Operating expenses	Loss	Interest	Taxes and Insurance	Total loss
1906-1907 .....	\$7,133 53	\$9,546 76	\$2,413 23	\$1,809 16	\$350 84	\$4,573 23
1907-1908 .....	8,893 45	11,921 51	3,028 06	1,741 12	393 60	5,162 78
1908-1909 .....	8,438 65	16,232 19	7,793 54	2,725 08	696 88	11,215 50
1909-1910 .....	8,562 65	13,572 49	5,009 84	2,396 24	644 96	7,961 04
1910-1911 .....	11,378 56	12,582 51	1,203 95	2,256 92	726 80	4,187 67
1911-1912 .....	11,891 65	15,946 37	4,054 72	2,156 76	479 78	6,688 26
1912-1913 .....	10,931 95	14,674 86	3,742 91	2,109 52	437 39	5,686 82
1913-1914 .....	6,749 62	14,438 14	7,688 52	2,114 92	269 98	10,073 42
1914-1915 .....	7,304 05	14,779 41	4,475 36	3,196 52	373 45	8,045 33
1915-1916 .....	11,493 83	14,524 21	3,030 38	2,012 48	663 41	5,646 27
1916-1917 .....	4,646 35	11,893 48	7,247 13	1,244 48	244 29	8,645 90
Totals .....	\$97,430 29	\$116,421 93	\$18,991 64	\$23,676 20	\$5,221 38	\$77,886 22

The foregoing statement covers operation of the railroad only and does not include the losses resulting from the operation of hotels owned by the company.

Although the suspension of service on the mountain line was objected to by the protestants in this proceeding, it appears clearly evident that the operation of the line to the summit of Mount Tamalpais is not a public necessity and that same is not patronized, resulting in a loss during the period for which suspension of operation is requested. It is understood that the hotel at the summit of Tamalpais is to be closed during the winter of 1917-18 and if this is done the volume of travel to the summit would be still further reduced. The applicant expressed a desire to operate one mountain train on Sundays and holidays during the period for which suspension of operation is requested, but it is not evident that such operation can be made a profitable venture if the hotel at the summit of Tamalpais is to be closed, resulting in no entertainment being available for patrons at the end of the trip.

I am of the opinion that the operation of the mountain trains from Mill Valley to the summit of Mount Tamalpais and of the branch line

to Muir Woods should be discontinued during the months of November to March, inclusive, of each year until the further order of the commission.

I shall now consider the portion of the application as relating to the operation of the so-called "Lee Street Local" from the Northwestern Pacific station at Mill Valley to the station of Lee Street.

The "Lee Street Local" line serves the residents of Blythedale Canyon by the operation of seventeen round trips daily on a schedule as heretofore agreed upon by the railway company and the residents. This line serves the needs of the community residing in Blythedale Canyon, including business men, school children and housewives. There is no other method of transportation available for the residents of the canyon and serious inconvenience would result if the suspension of service was to be authorized. This local service is cared for by a gasoline motor car having a seating capacity of twenty-three persons and a reserve car is available to ensure the regularity of service.

Protestants against the abandonment of this local service have used same for years and while the operation of this line during the months for which abandonment has been requested may result in a deficit, the line is serving a public necessity and its operation should be continued until the further order of the commission, and in view of the authority for the suspension of the mountain service during the winter months, service should be given on Sundays and holidays, local service having heretofore been furnished on such days by the mountain trains.

I am of the opinion and shall recommend that the so-called "Lee Street Local" service be continued during the winter months of the season 1917-18 for the reason that the residents of Blythedale Canyon have no other substitute transportation and serious inconvenience would result if the line were to be abandoned during such period.

I submit the following form of order:

#### ORDER.

Mount Tamalpais and Muir Woods Railway having made application for permission to discontinue all service on all its lines during the months of November to March of each year, a public hearing having been held, and the matter having been duly submitted and the commission being fully advised,

*It is hereby ordered* that Mount Tamalpais and Muir Woods Railway be and the same hereby is authorized to discontinue all mountain service on its main line from Mill Valley to the summit of Tamalpais, including the Muir Woods branch, during the months of November, December, January and February of each year until the further order of this commission.

*It is further ordered* that the application for permission to suspend operation of the so-called "Lee Street Local" operating between the

Mill Valley Station of the Northwestern Pacific Railroad through Blythedale Canyon to the station of Lee street during the months of November to March of each year be denied and that regular daily service in accordance with the schedule agreed upon between the applicant and its patrons and as appearing in the opinion in Decision No. 2944 in Application No. 1898, as decided by this commission November 30, 1915, be maintained during such months of each year until the further order of this commission.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the state of California.

Dated at San Francisco, California, this sixth day of December, 1917.

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DECISION No. 4928.

IN THE MATTER OF THE APPLICATION OF HALF MOON BAY LIGHT AND POWER COMPANY TO SELL AND GREAT WESTERN POWER COMPANY OF CALIFORNIA TO BUY A CERTAIN ELECTRICAL SYSTEM IN THE COUNTY OF SAN MATEO.

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Application No. 2590.

*Decided December 6, 1917.*

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BY THE COMMISSION.

**FIRST SUPPLEMENTAL ORDER.**

Whereas the Railroad Commission of the state of California, by Decision No. 3884, dated November 18, 1916, authorized the Half Moon Bay Light and Power Company to sell its business, franchises and assets as the same existed on the first of September, 1916, to the Great Western Power Company of California for the sum of \$47,500.00; and

Whereas Condition No. 2 of said Decision No. 3884, dated November 18, 1916, reads as follows:

“Within thirty (30) days from the date of this order Great Western Power Company of California shall file with the Railroad Commission a stipulation, duly authorized by its board of directors, declaring that Great Western Power Company of California, its successors and assigns, will never claim before the Railroad Commission or any court or other public body a value for the franchises acquired from Half Moon Bay Light and Power Company in excess of the actual cost to Half Moon Bay Light and Power Company of acquiring said franchises which cost shall be stated in the stipulation and shall receive from the Railroad Commission a supplemental order declaring that such stipulation in form satis-



factory to the Railroad Commission, has been filed with the Railroad Commission."

And

Whereas the Railroad Commission issued an order extending the time within which the Great Western Power Company of California might file said stipulation; and

Whereas Great Western Power Company of California on December 3, 1917, filed with the Railroad Commission pursuant to Decision No. 3884, dated November 18, 1916, a stipulation showing that Half Moon Bay Light and Power Company expended \$794.55 in acquiring said franchises; and

Whereas said stipulation is in form satisfactory to the Railroad Commission; now, therefore,

*It is hereby ordered* that the stipulation filed by Great Western Power Company of California on December 3, 1917, in the above-entitled matter be and the same is hereby approved.

Dated at San Francisco, California, this sixth day of December, 1917.

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DECISION No. 4929.

THE CITY OF LOS ANGELES

vs.

PACIFIC ELECTRIC RAILWAY COMPANY.

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Case No. 984.

*Decided December 6, 1917.*

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BY THE COMMISSION.

**ORDER OF DISMISSAL.**

Complainant in the above entitled proceeding having made written request that the complaint in said matter be dismissed,

*It is hereby ordered* that the complaint be and the same is hereby dismissed, without prejudice.

Dated at San Francisco, California, this sixth day of December, 1917.

## DECISION No. 4930.

IN THE MATTER OF THE APPLICATION OF BENICIA WATER COMPANY, FRANK DOTTA AND MERCANTILE TRUST COMPANY OF SAN FRANCISCO FOR AN ORDER AUTHORIZING THE SAID BENICIA WATER COMPANY TO SELL, AND THE SAID FRANK DOTTA TO PURCHASE AND ACQUIRE, CERTAIN LANDS AND FOR SAID COMPANY TO SUBJECT THE LANDS RECEIVED TO A DEED OF TRUST NOW A LIEN ON ITS PROPERTIES.

Application No. 3323.

*Decided December 6, 1917.*

BY THE COMMISSION.

## ORDER.

Benicia Water Company having applied to this commission for authority to transfer to Frank Dotta, in accordance with the form of deed attached to the application in this proceeding and marked Exhibit "E," the following described property:

Beginning at a point located in section 24, township 3 north, range 3 west, at the southwest corner of a tract of land now belonging to Frank Dotta and formerly owned by T. Silva, which said point is on the easterly line of the county road known as the "Sulphur Spring road," and which point bears on a point in the center line of a concrete dam three feet wide and about two hundred feet long in Sulphur Spring Creek, which last point is twenty-five (25) feet easterly from the center of three sluice gates in said dam and is marked by a  $1\frac{1}{2}$  inch pipe projecting one inch above the top of said dam; from which bearing point true courses (magnetic variation  $17\frac{1}{2}^{\circ}$  east) and distances are as follows:

North  $2\frac{1}{2}^{\circ}$  west 213 feet; thence north  $29\frac{3}{4}^{\circ}$  west 113 feet; thence north  $19^{\circ}$  west  $37\frac{1}{4}$  feet, to the aforesaid point of beginning; running thence along the easterly line of said county road, north  $6^{\circ}$  west 766 feet; thence north  $47\frac{3}{4}^{\circ}$  west 159 feet; thence north  $56\frac{1}{4}^{\circ}$  west 382 feet to the southern corner of a tract of land now owned by Joseph Clyne; thence along the southeasterly boundary line of said Clyne tract, north  $34\frac{1}{2}^{\circ}$  east 1,018 feet; thence along the easterly bank of Paddy Dam Creek, north  $49^{\circ}$  east 122 feet; thence north  $30^{\circ}$  east 153 feet; thence north  $38\frac{1}{4}^{\circ}$  east 142 feet; thence north  $41\frac{3}{4}^{\circ}$  east 163 feet; thence north  $37\frac{3}{4}^{\circ}$  east 180 feet; thence north  $30\frac{3}{4}^{\circ}$  east 106 feet; thence north  $39\frac{3}{4}^{\circ}$  east 205 feet; thence north  $62^{\circ}$  east 47 feet; thence north  $77\frac{1}{2}^{\circ}$  east 109 feet; thence north  $58^{\circ}$  east 60 feet; thence leaving the bank of said creek, south  $47\frac{1}{4}^{\circ}$  east 1,237 feet to the northerly corner of said Frank Dotta tract; thence along the northwesterly boundary line of said Frank Dotta tract south  $42\frac{3}{4}^{\circ}$  west 2,726 feet to the point of beginning; containing 67.15 acres of land, more or less;

Reserving and excepting therefrom a right of way twenty-five (25) feet wide for a road and telephone line as the same now exist, the westerly line of said right of way being five (5) feet west, and

the easterly line twenty (20) feet east of the said telephone line, the courses and distances of which are described as follows:

Commencing on the easterly line of the aforesaid county road, distant thereon 451 feet northerly from the point of beginning of the description of the above tract of land; running thence north  $32^{\circ}$  east 97 feet; thence north  $28^{\circ}$  east 144 feet; thence north  $26^{\circ}$  east 291 feet; thence north  $24^{\circ}$  east 500 feet; thence north  $23\frac{1}{4}^{\circ}$  east 1,000 feet; thence north  $23\frac{3}{4}^{\circ}$  east 210 feet; thence north  $30^{\circ}$  east 286 feet to the point in the northerly boundary line of the above described tract of land, which line bears south  $47\frac{1}{4}^{\circ}$  east and which said point is 155 feet distant thereon from the most northerly corner of the above-described tract of land.

Also reserving and excepting therefrom a right of way for a pipe line, with the right to relay the existing pipe line, and to lay a second pipe line for the entire distance parallel to the existing line and within six (6) feet on either side of the center line thereof, which center line is described as follows, to wit:

Commencing at a point on the southeasterly boundary line of the aforesaid tract of land (described as "south  $42\frac{3}{4}^{\circ}$  west 2,726 feet"); distant thereon 567 feet northeasterly from the point of beginning in the description of the above-described tract of land; thence north  $8\frac{3}{4}^{\circ}$  east 2,200 feet; thence in a northerly direction and following the present pipe line on a curve to the west 200 feet, more or less, to a point on the east bank of Paddy Dam Creek in the course in the description of said tract of land designated as "north  $77\frac{1}{2}^{\circ}$  east 109 feet," and which point is 164 feet southerly from the most northerly corner of said described tract of land; with the right of ingress and egress, to make repairs, to build necessary protection for fittings and valves, to repair or relay the existing pipe line, and to lay a second pipe line as herein provided, and also to repair the said telephone line and roadway, and to replace said telephone line;

It being further understood that said grantee, his successors or assigns, shall erect no structures or plant any trees nearer than eight (8) feet, measured at right angles, to the center line of said pipe line.

Together with all and singular, the tenements, hereditaments and appurtenances thereunto belonging or in anywise appertaining, the reversion and reversions, remainder and remainders, rents, issues and profits thereof.

And also having applied for authority to mortgage to Mercantile Trust Company of San Francisco in accordance with the form of mortgage attached to the application in this proceeding and marked Exhibit "D," the property which Benicia Water Company received in part payment for the property above authorized to be conveyed, the property received being described in the mortgage as follows:

Beginning at a point located in section 24, township 3 north, range 3 west, which point bears on a point in the center line of a concrete dam three (3) feet wide and about two hundred (200) feet long, in Sulphur Spring Creek, which last mentioned point is twenty-five (25) feet easterly from the center of three sluice gates

in said dam and is marked by a 1½-inch pipe projecting one inch above the top of the dam; from which bearing point true courses (magnetic variation  $17\frac{1}{2}^{\circ}$  east) and distances are as follows:

North  $70\frac{1}{2}^{\circ}$  west 167 feet; thence north  $67\frac{1}{2}^{\circ}$  west 400 feet; thence north  $62^{\circ}$  west 588 feet; thence south  $78\frac{1}{2}^{\circ}$  west 506 feet to the said point of beginning, which point is in the westerly boundary line of property now owned by Benicia Water Company; thence along the line of said Benicia Water Company's property, north  $6\frac{1}{2}^{\circ}$  east 299 feet; thence north  $47^{\circ}$  west 381 feet; thence south  $49\frac{3}{4}^{\circ}$  west 1,925 feet to a point; thence south  $48\frac{1}{2}^{\circ}$  west 721 feet; thence south  $30\frac{1}{2}^{\circ}$  west 221 feet; thence south  $30\frac{3}{4}^{\circ}$  west 214 feet; thence south  $70\frac{1}{2}^{\circ}$  west 1,506 feet; thence south  $50\frac{3}{4}^{\circ}$  east 1,288 feet to a stone monument; thence north  $27\frac{3}{4}^{\circ}$  east 1,324 feet to a point; thence south  $62\frac{1}{4}^{\circ}$  east 1,690 feet; thence north  $24^{\circ}$  east 695 feet; thence north  $59^{\circ}$  west 261 feet, thence north  $30\frac{1}{2}^{\circ}$  east 842 feet; thence north  $28\frac{3}{4}^{\circ}$  west 533 feet; thence north  $31^{\circ}$  east 470 feet; thence north  $81\frac{1}{2}^{\circ}$  east 193 feet to the point of beginning; containing 98 acres of land, more or less.

Together with the appurtenances thereunto belonging or in anywise appertaining.

To have and to hold the same upon the trusts and for the purposes expressed in the deed of trust hereinbefore referred to.

And it appearing to the commission that this is not a case in which a public hearing is necessary, and that said application should be granted,

*It is hereby ordered* that the application herein be and the same is hereby granted upon the following conditions:

1. That the consideration given for the property herein authorized to be transferred shall not be taken before this commission, or any other public body, as representing for rate fixing or other purposes the value of the property transferred.

2. The authority herein granted shall apply only to such conveyances or mortgages as shall be executed on or before December 31, 1917.

3. When any conveyance or mortgage is made in accordance with this order, a certified copy thereof shall, within ten (10) days thereafter be filed with the Railroad Commission.

Dated at San Francisco, California, this sixth day of December, 1917.

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Decisions Nos. 4931, 4932, 4933 and 4934, grade crossings; not printed.  
See end of volume.

#### DECISION No. 4935.

IN THE MATTER OF THE APPLICATION OF CALISTOGA ELECTRIC COMPANY FOR AUTHORITY TO INCREASE RATES.

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Application No. 2997.

*Decided December 6, 1917.*

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A utility which operates both a water and an electric system charging salaries of employees 50 per cent each to the two systems, can not, upon a separation of

such companies, expect the commission to allow the entire salaries of all employees heretofore prorated between the two companies to be charged entirely to both.

The commission considers the rural business of applicant still in the development stage and does not allow a full return upon the investment therein. Revised schedule of rates established providing for increases of approximately 10 per cent, such rates to be filed on or before December 20, 1917, and to become effective the next regular meter reading after filing.

*C. M. Derby*, for Applicant.

*N. W. Newton*, for Pacific Union College.

*C. F. Clark*, for town of Calistoga.

BY THE COMMISSION.

#### OPINION.

In the application herein, the Calistoga Electric Company alleges in effect that the company's present rates for service do not provide a reasonable and just return upon its capital investment, and that these rates do not equitably apportion the cost of service between its various classes of consumers. The applicant further alleges that certain abnormal operating expenses have recently arisen which will have to be provided for and which could not have been taken into account when the present rates were designed. The company states that its only method of financing additions and betterments is through appropriation of its net earnings for this purpose and that in order therefore to further develop the territory which it serves it is essential that reasonable net earnings should be allowed. The application also contains a request that certain existing special contract rates be eliminated.

A public hearing was held before Examiner Encell at Calistoga on October 2, 1917. It was stipulated at that time that any data regularly on file with the commission, or any information which might be filed subsequent to the hearing and which is pertinent to the issues, may be considered in evidence herein.

The Calistoga Electric Company distributes electric energy for light and power purposes to the inhabitants of the town of Calistoga in Napa County, and the surrounding suburban territory within a radius of ten miles therefrom.

Energy is purchased from the Napa Valley Electric Company at Bale Station about four and one-half miles southeast of Calistoga. Delivery is made at 6,600 volts. The wholesale rate, as recently established by this commission in Case No. 508, Decision No. 3876, Volume 11, page 974, Opinions and Orders of the Railroad Commission of the State of California, is 2 cents per kilowatt hour for the first 15,000 kilowatt hours per month and 1.7 cents per kilowatt hour for all energy in excess of 15,000 kilowatt hours per month. This order became effective on December 1, 1916.

The applicant served 317 consumers during 1917 and operated about 27 miles of distribution lines, of which approximately 75 per cent are located in rural territory.

One of the commission's assistant engineers, Mr. Wm. M. McKay, submitted an appraisal of applicant's electric properties based on the estimated historical reproduction cost theory. The results at which he arrived are shown in Table No. 1.

TABLE No. 1.

*Estimated Historical Reproduction Cost.*

Item	Inside city	Outside city	Total
Organization* .....	\$259	\$341	\$600
Franchises* .....	44	58	102
Land and rights of way* .....	19	26	45
Poles and fixtures .....	3,707	7,820	11,527
Overhead system .....	3,023	5,156	8,179
Substation equipment .....	48	165	213
Line transformers and devices .....	1,556	2,816	4,372
Electric services .....	1,356	384	1,740
Meters .....	2,535	880	3,415
Municipal street lighting system .....	907	-----	907
General equipment* .....	1,402	1,844	3,246
Undistributed construction expenditures* .....	2,032	2,672	4,704
Interest during construction* .....	290	382	672
<b>Total operative .....</b>	<b>\$17,178</b>	<b>\$22,544</b>	<b>\$39,722</b>
<b>Nonoperative .....</b>			<b>125</b>
<b>Grand total .....</b>			<b>\$39,847</b>

A deduction for accrued depreciation estimated on the straight line basis indicates that the reproduction cost less depreciation of these properties is \$32,393.00.

The actual investment as shown by the company's books is \$41,993.00.

Trustee C. F. Clark appeared for the town of Calistoga and protested against the allowance for rate fixing purposes of all of the applicant's investment in rural lines. He urged that the inhabitants of the town should not be required to bear the burden of the cost of furnishing service to consumers in the outside territory where the business involved is not sufficient to make it self-supporting.

The gross revenue received by the company during the year 1916 and the first eight months of 1917, and the operating expenses for the same period, are set forth in Table No. 2.

\*Prorated as to inside and outside on basis of proportion of the sum of other items.

TABLE No. 2.

*Gross Revenue and Operating Expenses.*

Class of service	<i>Gross Revenue.</i>	
	1916	First eight months, 1917
Residence lighting -----	\$3,693	\$2,393
Commercial lighting -----	3,810	2,628
Power -----	1,770	1,328
Municipal lighting -----	720	529
Totals -----	\$9,993	\$6,878
<i>Operating Expenses.</i>		
Production -----	\$3,938	\$2,410
Distribution -----	563	730
Commercial -----	206	383
General -----	1,231	1,284
Totals -----	\$5,938	\$4,807
Taxes -----	370	225
Grand totals -----	\$6,308	\$5,032

If it is assumed that the business during the last four months of 1917 will be proportional to that during the first part of the year, the net return for interest and depreciation, based on the estimated reproduction cost of \$39,722.00, will be 6.99 per cent. A reasonable depreciation annuity to be allowed for this property is \$1,417.00. If the net return be reduced by this amount, the rate of return for interest on the total investment will then be 3.4 per cent.

An analysis of the above figures based on the gross revenue for 1916, indicates that the investment inside the town is \$2.44 per dollar of gross revenue received therefrom, while the investment outside the town is \$7.18 per dollar of gross revenue received therefrom. If it were to be assumed that the applicant is not warranted in taking on business where the investment is greater in proportion to the gross revenue than that indicated by its business within the town of Calistoga, the outside business would then be sufficient to carry an investment of only \$7,525.00, which amount added to the investment inside the town would result in a total justifiable investment of \$24,703.00. Even under these assumptions the net return for interest on the investment would still be only 5.5 per cent. The commission does not hold that this is the proper method to follow in determining the justifiable investment of the applicant, but simply cites these figures to demonstrate that even if the so-called outside territory be placed on a parity as to investment and gross revenue with the territory within Calistoga there would still be no justification for a refusal to grant applicant an increase in its present rates.

In addition to the operating expenses as set forth in Table No. 2, the applicant is obliged to meet the following abnormal expenses which it must arrange to amortize in the immediate future:

Reimbursement of Napa Valley Electric Company for service received under a contract at a rate subsequently found to be illegal.....	\$3,081 00
Estimated cost of reconstruction of applicant's lines to conform with the state safety laws.....	2,000 00
Legal expenses .....	500 00
Total .....	<u>\$5,581 00</u>

The applicant is facing a further increase in its operating expenses on account of the fact that it is proposed to separate the operation of the electric and water properties which have hitherto been taken care of jointly by the same operating force. Mr. Derby estimates that this increase will amount to approximately \$1,710.00 per annum. His estimate is based on the assumption that each of the employees whose salary is now divided between the two systems will have to be paid a full salary by the electric company and that the item of office rent will be increased in the same way. Such an arrangement would, of course, be unwarranted, as undoubtedly the duties of the various employees will be consolidated so that the business can be carried on with a smaller number of men when the water department is eliminated. We believe that this increase should not exceed \$500.00 per annum.

The applicant is now serving 21 consumers under special contracts providing rates which are deviations from its regularly filed schedules. In every case these rates will be superseded by the rates established in the order herein.

The rates herein established will cause an increase in gross revenue of a little more than 10 per cent, and without providing for the amortization of the abnormal expenses noted above, will result in a net return on the applicant's total investment of approximately 4.5 per cent, or 7.5 per cent on the remaining investment if the capital in rural lines were reduced to the same basis of gross return per dollar invested, as exists within the corporate limits. It is apparent that the rural business, at least of the Calistoga Electric Company, is still in the development stage and it would therefore be unreasonable for the company to expect rates which under present conditions would yield a return of 8 per cent on its full investment even if it were possible to secure this business under such rates. Recognizing the difficulties to be met by reason of the limitations imposed by the value of the service, the rates herein-after established are designed to encourage further development of new business, which it is believed will eventually result in the full realization by Calistoga Electric Company of the full return on its investment to which it may then be entitled.



No change will be made in the existing rates for street lighting, inasmuch as the company has the right to make any concession in this regard which it may desire and inasmuch as no evidence was submitted which bears specifically on this class of service.

### ORDER.

Calistoga Electric Company having made application to the Railroad Commission for authority to increase its rates, and a public hearing having been held, and the matter having been submitted and being now ready for decision, the Railroad Commission hereby makes the following findings of fact:

1. The Railroad Commission finds that the rates, rules, regulations, contracts and practices of the Calistoga Electric Company are unjust and unreasonable in so far as they differ from the rates, rules, regulations, contracts and practices herein established.

2. The Railroad Commission hereby finds that the rates, rules, regulations, contracts and practices herein established are just and reasonable rates, rules, regulations, contracts and practices.

Basing its order on the foregoing findings of fact and on each statement of fact contained in the opinion which precedes this order,

*It is hereby ordered* as follows:

1. Calistoga Electric Company is hereby authorized to establish and file with the Railroad Commission on or before December 20, 1917, the following rates for the respective classes of electric service specified, which rates are found to be just and reasonable rates. These rates shall be made effective at the next regular meter reading date subsequent to said date of filing.

#### SCHEDULE NO. 1.

##### *General Lighting Rate.*

Based on the monthly consumption per meter.

10 cents per kilowatt hour for the first 100 kilowatt hours.

5 cents per kilowatt hour for all over 100 kilowatt hours.

Minimum monthly charge, \$1.00 per meter.

Motors of 1 horsepower and less may be included under this schedule.

#### SCHEDULE NO. 2.

##### *General Power Rate.*

Based on the monthly consumption per meter.

6 cents per kilowatt hour for the first 15 kilowatt hours per horsepower installed.

3 cents per kilowatt hour for the next 30 kilowatt hours per horsepower installed.

2 cents per kilowatt hour for all over 45 kilowatt hours per horsepower installed.

*Discounts:* A discount of 10 per cent will be allowed if the consumer owns transformers and is metered on primary side.

*Minimum charge:* Minimum monthly charge, \$1.00 per horsepower installed.

Minimum monthly bill, \$1.00.

**SCHEDULE No. 3.***Seasonal Power.*

The following rate applies to electrical energy supplied for seasonal power purposes, such as wineries, water systems, irrigation, rock crushers, mines, summer resorts and other like industries:

*Rate.*

Based on the yearly consumption per horsepower installed.

Meters to be read and bills rendered monthly.

6 cents per kilowatt hour for the first 150 kilowatt hours per horsepower installed.  
3 cents per kilowatt hour for the next 300 kilowatt hours per horsepower installed.  
2 cents per kilowatt hour for all over 450 kilowatt hours per horsepower installed.

*Discounts:* A discount of 10 per cent will be allowed if consumer owns transformers and is metered on primary side.

*Minimum charge:* \$9.00 per horsepower per year but not less than \$27.00 per year.

**SCHEDULE No. 4.***Municipal Street Lighting.*

This schedule of rates applies to all street, highway and other outdoor lighting and includes installation and all maintenance, operation and lamp renewals necessary for such service.

Unless otherwise agreed to between the company and the consumer the following rates shall apply:

All-night schedule, 4,000 hours per annum; \$1.50 per month for each 60-watt or 80 candle-power lamp.

2. Calistoga Electric Company is hereby directed to prepare and file with the Railroad Commission on or before January 1, 1918, revised rules and regulations in accordance with the findings contained in this order, in the opinion preceding this order, and in Decision No. 2879, and satisfactory to the Railroad Commission.

Dated at San Francisco, California, this sixth day of December, 1917.

**DECISION No. 4936.**

**IN THE MATTER OF THE APPLICATION OF RIVER BEND GAS AND WATER COMPANY FOR A CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY; APPLICATION OF ALTA DISTRICT GAS COMPANY TO SELL, AND RIVER BEND GAS AND WATER COMPANY TO BUY, A CERTAIN GAS PLANT; APPLICATION OF THE PARLIER WINERY TO SELL, AND RIVER BEND GAS AND WATER COMPANY TO BUY, CERTAIN WATER WORKS, GAS FRANCHISES AND LANDS; APPLICATION OF RIVER BEND GAS AND WATER COMPANY TO ISSUE AND SELL CAPITAL STOCK.**

**Application No. 2632.**

*Decided December 6, 1917.*

A utility which transfers its water distributing system to another company, retaining its wells and pumps under an agreement which provides that it is to furnish the purchasing company with water in wholesale quantities at a fixed

rate of \$150.00 per month, does not lose its public utility nature nor is it relieved of its obligations as such.

A utility which, in accordance with requirements of the commission in granting it a certificate, files stipulations agreeing that no value shall ever be claimed for its franchises in excess of the actual original cost thereof, must show in such stipulations the actual cost of acquiring such franchises.

Order heretofore issued permitting River Bend Company to issue \$194,060.00 par value of stock, vacated, and it is now permitted to issue \$138,467.00 par value of common stock to be issued in payment for properties acquired, advances made, promotion and legal expenses, the balance to be held in special fund for future additions and betterments; also \$75,000.00 face value of bonds, of which \$50,000.00 shall be issued to Parlier Winery covering advances made, the balance for future additions and betterments. River Bend Company authorized to execute a trust deed and also granted a certificate permitting operation under a franchise obtained from the county of Fresno.

*Chaffee E. Hall*, for Applicants.

GORDON, *Commissioner*.

#### FIRST SUPPLEMENTAL OPINION.

In a first supplemental application, filed November 7, 1917, River Bend Gas and Water Company, Alta District Gas Company and Parlier Winery ask for an amendment of this commission's Decision No. 4082, dated February 5, 1917, which will permit River Bend Gas and Water Company to mortgage its property as security for an issue of \$250,000.00 face value of first mortgage 6 per cent fifteen-year sinking fund gold bonds and to issue \$75,000.00 face value of said bonds to Parlier Winery in payment for its water system and in liquidation of cash advances.

In Decision No. 4082, above referred to, River Bend Gas and Water Company was authorized to issue \$194,060.00 par value of common capital stock. Of this stock \$12,300.00 was to have been issued to Parlier Winery in payment for its water system as the same existed on August 1, 1916, and \$69,000.00 was to have been issued to Parlier Winery in liquidation of cash advances to August 1, 1916.

River Bend Gas and Water Company now reports that it has been unable to proceed with the financing of its properties in the manner above outlined, and it now proposes, if permitted by this commission, to pay Parlier Winery for its water system and cash advances by an issue of \$75,000.00 of bonds in lieu of the \$81,300.00 of stock. To this end it asks for authority to execute a deed of trust to Bank and Trust Company of Central California, trustee, mortgaging all property which it now owns or may hereafter acquire as security for a total authorized issue of \$250,000.00 face value of first mortgage 6 per cent fifteen-year sinking fund gold bonds.

Applicant has submitted for the approval of the commission a copy of its proposed mortgage or deed of trust. (Supplemental Exhibit "A.") This instrument provides that the bonds issued there-

under shall be dated October 1, 1917, and mature October 1, 1932; that they shall be issued in denominations of \$1,000.00, \$500.00 and \$100.00, and that they shall be callable on any interest date after October 1, 1917, at prices varying from 105 to 101 according to approach of maturity. Beginning October 1, 1919, and annually thereafter until all bonds are redeemed, the company will deposit with the trustee for sinking fund purposes, a sum equal to  $1\frac{1}{2}$  per cent of all bonds outstanding. It is further provided that \$75,000.00 face value of bonds may be issued immediately and that the balance, amounting to \$175,000.00, may be issued from time to time equal in face amount to 80 per cent of the moneys expended for additions and betterments, provided the net earnings for 12 consecutive months have been  $1\frac{1}{2}$  times the interest on bonds outstanding and applied for.

In a valuation made in connection with the original application in this matter, Mr. W. J. Hammond, assistant engineer of the commission, placed the estimated reproduction cost new of the properties of River Bend Gas and Water Company and Alta District Gas Company as of November 1, 1916, at \$126,538.00. Mr. Hammond placed the reproduction cost new less depreciation of these properties as of the same date at \$115,582.00.

There was also presented at the former hearing a report prepared by Mr. James Armstrong, assistant hydraulic engineer of the commission, in which he estimated the original cost of the water system of Parlier Winery as of December 31, 1916, at \$11,153.72.

At the hearing of this first supplemental application applicant filed a statement of fixed capital installed for the period from December 31, 1916, to October 31, 1917. (See applicant's supplemental Exhibit "E.") This statement shows a total of additions and betterments for the ten months of \$22,188.07.

Applicant's supplemental Exhibit "E" above referred to also contains a combined balance sheet of River Bend Gas and Water Company, Alta District Gas Company and Parlier Winery as of October 31, 1917, and an income account of the same companies for the ten months ending October 31, 1917. These statements are summarized below. For the purpose of comparison there is also included an income statement of the three companies taken from the annual report of River Bend Gas and Water Company to the commission for the year ending December 31, 1916.

## COMBINED BALANCE SHEET.

*River Bend Gas and Water Company; Alta District Gas Company and Parlier Winery (water system) as of October 31, 1917.*

*Assets.*

<i>Fixed capital.</i>		
Gas -----	\$128,008 24	
Water -----	13,556 72	
		\$141,654 96
Cash and deposits -----		20 00
Accounts receivable—		
Gas -----	\$3,805 20	
Water -----	438 00	
Appliances -----	4,204 90	
Oil -----	128 95	
		8,577 05
Materials and supplies -----		5,810 05
Total assets -----		\$156,062 06

*Liabilities.*

Capital stock (Alta District Gas Company) -----	\$28,000 00	
Assessments (Alta District Gas Company) -----	5,175 00	
		\$33,175 00
Advances by Parlier Winery -----	\$90,326 98	
Note advances by Parlier Winery -----	5,000 00	
Bills payable (mortgages) -----	10,000 00	
Consumers deposits -----	138 00	
Contingent fund deposit -----	592 54	
Unamortized premium on debt -----	14 88	
		106,072 40
<i>Accrued Items (not yet on ledgers).</i>		
Due Parlier Winery salary R. K. Madsen -----	\$1,500 00	
Due Parlier Winery expense ( $\frac{1}{2}$ ) -----	464 35	
Due Parlier Winery water purchase -----	1,500 00	
Taxes 1916 not yet paid -----	658 47	
Taxes 1917 accrued -----	1,622 02	
Interest accrued on \$10,000.00 note -----	466 67	
		6,211 51
Corporate surplus unappropriated -----		10,603 15
		\$156,062 06

## COMPARATIVE INCOME STATEMENT.

*River Bend Gas and Water Company; Alta District Gas Company and Parlier Winery (water system).*

	Year ending December 31, 1916	Ten months ending October 31, 1917
Gas operations.		
Operating revenue .....	\$23,865 90	\$28,417 43
Operating expense .....	18,846 14	23,690 51
Net operating revenue (gas) .....	\$5,019 74	\$4,756 92
Water operations.		
Operating revenue .....	\$2,914 30	\$2,478 21
Operating expense .....	1,860 00	1,509 00
Net operating revenue (water) .....	1,054 30	969 21
Total net operating revenue .....	\$6,074 04	\$5,726 13
Add—		
Gas bills written off, since collected .....		1 50
Gross corporate income .....		\$5,727 63
Deduct—		
Uncollectible bills .....	\$349 00	
Interest deductions .....	800 00	744 19
	\$1,149 00	\$744 19
Net income .....	\$4,925 04	\$4,983 44

The operating expenses shown in the foregoing statement include no allowance for depreciation. Inasmuch as River Bend Gas and Water Company in its proposed mortgage agrees to set up an adequate and proper depreciation reserve, the earnings available for bond interest will be correspondingly decreased.

Parlier Winery, as stated in Decision No. 4082, advanced to River Bend Gas and Water Company to August 1, 1916, the sum of \$62,075.86. Since that date it has advanced to it the sum of \$28,251.12, making a total of \$90,326.98. The order in Decision No. 4082 contemplated that the advances to August 1, 1916, be liquidated through the issue of stock. Applicant now desires to similarly liquidate the advances from August 1, 1916, to date. Decision No. 4082 provided that River Bend Gas and Water Company might issue and sell \$56,700.00 common capital stock at not less than 90 per cent of the par value to pay \$1,000.00 of legal expenses and for additions and betterments. If River Bend Gas and Water Company file with the commission a detailed statement showing that the advances have been used for additions and betterments, I am of the opinion that it should be permitted to issue a sufficient amount of the stock heretofore authorized for additions and betterments to Parlier Winery on a basis of 90 per cent of par to liquidate advances subsequent to August 1, 1916.

If the plan of financing now proposed by River Bend Gas and Water Company were followed, the amount of stock and bonds to be issued immediately would be approximately as follows:

<i>Bonds.</i>		Face value
To Parlier Winery in payment for water system as of August 1, 1910, and in liquidation of cash advances to August 1, 1916-----		\$75,000 00
<i>Stock (on basis of 90 per cent of par).</i>		Par value
To Parlier Winery for advances from August 1, 1916, to November 1, 1917 -----		\$31,390 00
To Alta District Gas Company in full payment for its properties as of August 1, 1916 -----		50,000 00
To Parlier Winery in payment for promotion services to August 1, 1916 -----		5,560 00
To be issued as directors' qualifying shares in lieu of shares heretofore issued -----		500 00
For legal expenses -----		1,110 00
Total stock -----		\$88,560 00
Total bonds -----		75,000 00
Total bonds and stock -----		\$163,560 00

It is extremely difficult at this time to estimate the future earnings of River Bend Gas and Water Company. The company has had a healthy growth to date, its consumers having increased approximately as follows:

	December 31, 1916	November 1, 1917
Water -----	122	160
Gas -----	1,022	1,300

This company, however, like many others, reports that it is confronted by a rise in cost of fuel oil, labor and supplies due to war conditions. At the present time the company has a contract for fuel oil at 55 cents per barrel. With freight added the cost to the company is approximately 80 cents per barrel. This contract will expire in February, 1918, and applicant's superintendent stated that he believed the company would be compelled to pay at least \$1.50 per barrel for its oil after the expiration of the present contract.

To meet this condition, applicant is contemplating asking this commission for authority to increase its rates. This matter is not now before the commission and the decision in this proceeding must be based largely upon the company's present earnings. In view of this fact and the failure of River Bend Gas and Water Company to provide for a reserve for depreciation, I do not believe that applicant should be permitted to issue in excess of \$50,000.00 face value of bonds at this time, and I shall so recommend.

The order in Decision No. 4082 provided, among other things, that before Parlier Winery should sell, and River Bend Gas and Water

Company purchase, the water system of the former company, there should be filed with this commission a copy of a contract between the two companies for the purchase and sale of water, it being the desire of Parlier Winery to retain title to its well and pumps and to dispose of its distributing system only. Such a contract has now been filed and marked Applicant's Supplemental Exhibit "D." This contract runs for a term of three years from January 1, 1917, and provides for the delivery of water at the rate of \$150.00 per month. In approving the contract it should be distinctly understood that the commission accepts this contract only for the purpose of filing the rate and that the approval of such contract should not be interpreted as in any way relieving Parlier Winery from any of its public utility obligations.

The commission's order in Decision No. 4082 further provided that before Parlier Winery should transfer its water system it should secure a franchise from the county of Fresno. Such a franchise has now been secured in the name, however, of River Bend Gas and Water Company. This franchise is contained in Ordinance No. 173 of the county of Fresno, dated October 2, 1917. It provides that River Bend Gas and Water Company may operate a water distributing system for a term of fifty years in the territory embraced within a radius of two miles from the United States post office at Parlier. I am of the opinion that River Bend Gas and Water Company may be granted, subject to the conditions hereinafter mentioned, a certificate of public convenience and necessity to operate under this franchise.

River Bend Gas and Water Company has filed with the commission a stipulation to the effect that it will never claim a value for the rights and privileges granted by Ordinance No. 173 in excess of the actual cost thereof. Neither this stipulation nor the stipulation filed pursuant to condition 3 of the order in Decision No. 4082 relative to Ordinance No. 158 of the county of Fresno or Ordinance No. 133 of the county of Tulare or Ordinance No. 91 of the city of Kingsburg show the cost of acquiring the franchises. The two stipulations should be amended in that regard.

I herewith submit the following form of order:

#### ORDER.

River Bend Gas and Water Company, Alta District Gas Company and Parlier Winery having applied to the Railroad Commission for an amendment of its previous order in this proceeding (Decision No. 4082, dated February 5, 1917) which will permit River Bend Gas and Water Company to execute a mortgage or deed of trust in favor of Bank and Trust Company of Central California, trustee, and to issue stock and bonds for the purposes set forth in the foregoing opinion; and a public hearing having been held, and it appearing that the purposes for



which it is proposed to issue said bonds are not reasonably chargeable in whole or in part to operating expenses or to income, and that the proceeds to be derived from the sale of said stock and bonds are reasonably required for the purposes specified in the following order,

*It is hereby ordered* that the order in Decision No. 4082 in so far as it relates to the issue of \$194,060.00 of stock be and the same is hereby vacated and set aside; and that River Bend Gas and Water Company be and it is hereby authorized to issue \$138,467.00 par value of its common capital stock for the following purposes:

(a) Stock in the amount of \$50,000.00 may be issued to Alta District Gas Company in full payment for its properties as of August 1, 1916.

(b) Stock in the amount of \$13,417.00 may be issued to Parlier Winery in part payment for advances to August 1, 1916.

(c) Stock in the amount of \$12,300.00 may be issued to Parlier Winery in full payment for its water works as of August 1, 1916.

(d) Stock in the amount of \$5,560.00 may be issued to Parlier Winery in full payment for promotion services to August 1, 1916.

(e) Stock in the amount of \$500.00 may be issued to the directors of River Bend Gas and Water Company in lieu of a like amount of stock heretofore issued to them.

(f) Stock in the amount of \$56,690.00 shall be sold for not less than 90 per cent of its par value and \$1,000.00 of the proceeds used to pay legal expenses; the remainder of the proceeds shall be placed in a special trust fund to be expended only upon further orders from the Railroad Commission after River Bend Gas and Water Company has filed with the Railroad Commission a detailed statement of its additions and betterments subsequent to August 1, 1916, or a statement of its proposed additions and betterments.

*It is hereby further ordered* that River Bend Gas and Water Company be and it is hereby authorized to execute a mortgage or deed of trust to Bank and Trust Company of Central California, trustee, substantially in the same form as the mortgage or deed of trust filed in this proceeding on November 7, 1917, and marked Exhibit "A."

The approval herein given of said mortgage or deed of trust is for the purpose of this proceeding only and is an approval only in so far as the Railroad Commission has jurisdiction under the terms of the Public Utilities Act, and is not intended as an approval of said mortgage or deed of trust as to such other legal requirements to which said mortgage or deed of trust may be subject.

*It is hereby further ordered* that River Bend Gas and Water Company be and it is hereby authorized to issue \$75,000.00 face value of its first mortgage 6 per cent fifteen-year sinking fund gold bonds; \$50,000.00 of said bonds may be issued forthwith to Parlier Winery in part payment for cash advances to August 1, 1916; the remaining

\$25,000.00 of bonds may be issued hereafter for additions and betterments at a price to be fixed by the commission in a supplemental order.

The Railroad Commission of California hereby declares that public convenience and necessity require the exercise by River Bend Gas and Water Company of the rights and privileges conferred by Ordinance No. 173 of the county of Fresno adopted on or about October 2, 1917.

The authority herein granted is granted upon the following conditions and not otherwise:

1. None of the bonds herein authorized to be issued shall be issued until River Bend Gas and Water Company has acquired full and complete title to the properties of Alta District Gas Company and the water distributing system of Parlier Winery in accordance with the terms of this order.

2. Before this order shall become effective River Bend Gas and Water Company shall file with the Railroad Commission a stipulation duly authorized by its board of directors declaring that River Bend Gas and Water Company, its successors and assigns, will never claim before the Railroad Commission or any court or other public body a value for any rights or privileges obtained under Ordinance No. 173 of the county of Fresno, adopted on or about October 2, 1917, in excess of the amount actually paid by River Bend Gas and Water Company to the county of Fresno for said franchise, said stipulation to show such amount, and it shall have received from the Railroad Commission a supplemental order declaring that such stipulation in form satisfactory to the Railroad Commission has been filed with the Railroad Commission.

3. The Railroad Commission of the state of California hereby approves the contract between Parlier Winery and River Bend Gas and Water Company marked "Applicant's Supplemental Exhibit 'D,'" relating to the sale of water, provided that the approval herein given of said contract is for the purpose of filing the rate mentioned in said contract and that the approval of said contract in no way operates to relieve Parlier Winery from any of its public utility obligations.

4. Within ten days after its execution, River Bend Gas and Water Company shall file with the Railroad Commission a copy of its mortgage or deed of trust, herein authorized to be executed.

5. River Bend Gas and Water Company shall keep separate, true and accurate accounts showing the receipt and application in detail of the proceeds of the sale of the stock and bonds herein authorized to be issued; and on or before the twenty-fifth day of each month the company shall make verified reports to the Railroad Commission stating the sale or sales of said stock and bonds during the preceding month, the terms and conditions of the sale, the moneys realized therefrom, and the use and application of such moneys, all in accordance with this

commission's General Order No. 24, which order, in so far as applicable, is made a part of this order.

6. The authority herein granted to issue bonds shall not become effective until River Bend Gas and Water Company has paid the fee prescribed by the Public Utilities Act.

7. The authority herein granted to transfer property shall apply only to such property as may be transferred on or before January 31, 1918. The authority herein granted to issue stock and bonds shall apply only to such stock and bonds as may be issued on or before June 30, 1918.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the state of California.

Dated at San Francisco, California, this sixth day of December, 1917.

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DECISION No. 4937.

FREDERICK M. MUNGER

vs.

PACIFIC GAS AND ELECTRIC COMPANY.

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Case No. 1130.

*Decided December 6, 1917.*

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A complaint to compel defendant company to construct an extension of its electrical distributing line a distance of approximately 550 feet across private property of complainant so as to enable it to serve him with electric energy: The principal question in connection with the construction of an extension is whether or not the revenue to be derived therefrom is sufficient to warrant the utility in incurring the expense incidental thereto. The cost of constructing the extension being estimated at \$293.95, including transformers and meters, defendant is directed to proceed therewith within twenty days after receipt of a right of way from complainant and a satisfactory guarantee of a minimum annual revenue of \$72.00 for a period of five years.

*Charles A. Gray*, for Complainant.

*Charles P. Cullen*, for Defendant.

BY THE COMMISSION.

**OPINION.**

The issue in this proceeding is as to whether the defendant company shall be required to extend its distribution lines a distance of between eight and nine hundred feet across complainant's private property in Santa Clara County near Los Altos, in order that it may serve complainant with electric energy for residence lighting and for the operation of a pumping motor. Complainant alleges that the defendant company has refused to make such extension unless its cost, estimated

at \$167.40, be advanced by complainant, although prior to November, 1913, a similar extension was made by the company at its own expense for a distance of approximately 2,000 feet along a private road to serve a pumping plant on the Burke Estate. This line is adjacent to the property of the complainant. Complainant further alleges that he is willing to guarantee any reasonable minimum revenue which the commission may find to be necessary in order that the company's investment in the proposed line may be justified and asks for an order requiring the removal of the alleged discrimination against complainant by reason of the granting of a similar line, without charge, to the Burke Estate, and also asks that the required service be granted to complainant at regular rates and upon no other condition than the guarantee of a reasonable minimum.

Defendant's answer admits its refusal to serve the complainant as requested unless the cost of the necessary facilities, less that of transformers and meters and the first 100 feet of line, be paid by the complainant. The answer alleges that the estimated revenue which would be obtained through this extension is not sufficient to result in a fair net return on the entire cost of the extension and asks that the complaint be dismissed.

A public hearing was held in this matter at San Francisco on October 8, 1917, before Examiner Encell, at which time the case was submitted and is now ready for decision.

In opposing complainant's application for service the company relies upon the commission's Decision No. 2879 in Case 683, Volume 8, page 372, Opinions and Orders of the Railroad Commission of the State of California, in which the following rule regarding service connections is established:

#### RULE 13.

"A water, gas, electric or telephone utility which operates upon, under or along any public street, highway, alley, lane or road shall at its own expense install a service connection of normal size to the property line or curb line of property abutting upon said public street, highway, alley, lane or road or to such point on the consumer's premises as the utility may agree upon. The term 'service connection,' as herein used, shall include water and gas pipes, electric and telephone wires, water, gas and electric meters, electric transformers, gas regulators, telephone instruments and appurtenances. Subject to review by the Railroad Commission, a water, gas, electric or telephone utility may refuse to make a service connection if it believes that the service will not be used in the reasonably immediate future."

The defendant apparently makes the assumption that inasmuch as the commission has ordered that the utility shall extend its service at least to the boundary line of property which is contiguous to its

existing lines, the converse is true, namely, that in no case may the utility be required to extend its lines across such private property. This conclusion in this regard does not logically follow from the premises.

There are, however, certain circumstances in connection with lines on private property which in some instances might warrant the utility in refusing to construct them at its own expense. The ownership of the poles in so far as they may be considered to be permanently attached to the real estate, unless protected by a right of way contract or other agreement, might be adjudged to pass to the owner of the property.

There is, however, no essential difference between a line constructed on a private right of way and which may be extended for the service of the public and a line which is constructed upon a public highway. In either case the principal consideration is as to whether the prospective revenue will warrant the necessary investment.

The evidence herein indicates that the complainant is ready and willing to grant a right of way along the line of his property to the point where service is required and from there to a point on the county road known as "Robleda avenue," from whence further extensions may be made for the service of prospective consumers located along this road. It is also shown that there are no other cross roads in this vicinity and that if in the future business is developed along said county road this is a natural route for the company to follow. It is admitted that there are no immediate prospects for the development of business in this particular locality. This, however, has no material bearing on the present proceeding inasmuch as the complainant has expressed his willingness to guarantee any annual revenue which the commission may find to be reasonable, thereby insuring that this extension, if constructed, will be self-supporting.

In answering the complainant's charge of discrimination in connection with the Burke extension, defendant claims that the same was made during a period in which the company's policy was extremely liberal as to extensions, which policy has since been modified. In testifying in this regard, Mr. Kuster, manager of the defendant's San Jose district, said: "It (the company's present policy) has been to be generous for extensions on the highway, but to require the property owner to pay for extensions on private property, if they were more than 100 feet distant." Since, for the reasons hereinbefore noted, it appears that the company will be fully justified in granting the extension as herein requested, it will not be necessary for the commission at the present time to pass upon the question of discrimination here raised.

It is estimated that the total cost of this extension, including transformers and meters, is \$293.05. Taking into account the fixed charges

and operation and maintenance of this investment, together with consumer costs, taxes, and the cost of delivering the required energy to the line, we find that \$72.00 per annum is the sufficient revenue to amply justify the company's investment in this case.

After careful consideration of the evidence submitted herein, this commission finds that the complainant is entitled to receive service and that the defendant should construct, at its own expense, the necessary line, under conditions specified in the following order:

**ORDER.**

A public hearing having been held in the above-entitled proceeding and the case having been submitted and being now ready for decision, and the commission finding as a fact that the Pacific Gas and Electric Company should extend its lines to serve complainant under the conditions as outlined in this order,

*It is hereby ordered* that Pacific Gas and Electric Company, within twenty days after a receipt of a right of way from Frederick M. Munger, shall construct and extend its electric lines and furnish said complainant with electric energy for lighting and power purposes as requested, provided that said Frederick M. Munger shall agree to furnish satisfactory guarantee to the Pacific Gas and Electric Company that it will receive a minimum annual revenue of \$72.00 from said extension for a period of five years or until such less time as the rates or regulations covering this matter are changed by this commission.

Dated at San Francisco, California, this sixth day of December, 1917.

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DECISION No. 4938.

IN THE MATTER OF THE APPLICATION OF THE PACIFIC TELEPHONE AND TELEGRAPH COMPANY FOR AN ORDER OF THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA GRANTING IT A CERTIFICATE THAT PUBLIC CONVENIENCE AND NECESSITY REQUIRE THE EXERCISE BY IT OF THE RIGHTS AND PRIVILEGES CONFERRED UPON IT UNDER THE FRANCHISE GRANTED IT BY THE BOARD OF TRUSTEES OF THE CITY OF SAN LEANDRO, BY ORDINANCE NO. 241, N. S., ON THE SIXTH DAY OF AUGUST, 1917.

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Application No. 3321.

*Decided December 7, 1917.*

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BY THE COMMISSION.

**ORDER.**

The Pacific Telephone and Telegraph Company having applied to this commission for a certificate declaring that public convenience and necessity require the exercise by it of the franchise privileges conferred by Ordinance No. 241, N. S., of the city of San Leandro, attached to

the application herein and marked Exhibit "B," which ordinance grants to said company, its successors and assigns, the right to place, erect and maintain poles, wires and other appliances and conductors, and to lay underground conductors for wires for the transmission of electricity for telephone and telegraph purposes, in, upon, and under the streets, alleys, avenues, thoroughfares and public highways, in the town of San Leandro, state of California, and to exercise the privilege of operating telephone and telegraph instruments and of doing a telephone and telegraph business within said town of San Leandro; and the commission being of the opinion that this is not a case in which a public hearing is necessary and that said application should be granted,

*It is hereby ordered* that said application be and the same is hereby granted; provided, that neither said applicant, its successors nor assigns, shall ever claim before this commission, or any other public body, a value for said franchise for rate fixing or other purposes in excess of the amount actually paid to the city of San Leandro as the consideration for the grant of such franchise, which amount appears from the application to be \$143.35.

Dated at San Francisco, California, this seventh day of December, 1917.

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DECISION No. 4939.

IN THE MATTER OF THE APPLICATION OF THE PACIFIC TELEPHONE AND TELEGRAPH COMPANY FOR AN ORDER OF THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA GRANTING IT A CERTIFICATE THAT PUBLIC CONVENIENCE AND NECESSITY REQUIRE THE EXERCISE BY IT OF THE RIGHTS AND PRIVILEGES CONFERRED UPON IT UNDER THE FRANCHISE GRANTED IT BY THE CITY OF LONG BEACH BY ORDINANCE NO. 541 ON APRIL 15, 1912.

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Application No. 2941.

*Decided December 7, 1917.*

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BY THE COMMISSION.

**ORDER.**

The Pacific Telephone and Telegraph Company having applied to this commission for a certificate declaring that public convenience and necessity require the exercise by it of the franchise privileges conferred by Ordinance No. 541 of the city of Long Beach, attached to the application herein and marked Exhibit "B," which ordinance grants to said company, its successors and assigns, the right to place, erect and maintain poles, wires and other appliances and conductors, and to lay underground conductors for wires for the transmission of electricity for

telephone and telegraph purposes, in, upon and under the streets, alleys, avenues, thoroughfares and public highways, in the city of Long Beach, state of California, and to exercise the privilege of operating telephone and telegraph instruments and of doing a telephone and telegraph business within said city of Long Beach, and the commission being of the opinion that said application should be granted.

*It is hereby ordered* that said application be and the same is hereby granted; provided, that neither said applicant, its successors nor assigns, shall ever claim before this commission, or any other public body, a value for said franchise for rate fixing or other purposes in excess of the amount actually paid to the city of Long Beach as the consideration for the grant of such franchise, which amount appears from the application to be \$723.96.

Dated at San Francisco, California, this seventh day of December, 1917.

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DECISION No. 4940.

IN THE MATTER OF THE APPLICATION OF THE LA JOLLA-CAMP KEARNY STAGE COMPANY FOR CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY TO OPERATE MOTOR STAGE SERVICE BETWEEN LA JOLLA AND CAMP KEARNY.

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Application No. 3310.

*Decided December 7, 1917.*

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BY THE COMMISSION.

**FIRST SUPPLEMENTAL ORDER.**

In accordance with the order heretofore made in this proceeding on November 14, 1917, La Jolla-Camp Kearny Stage Company has filed with the Railroad Commission certified copies of permits from the board of supervisors of San Diego County and from the common council of the city of San Diego, as required by section 3 of chapter 213, laws of 1917.

Dated at San Francisco, California, this seventh day of December, 1917.



Decision No. 4941, grade crossing; not printed. See end of volume.

DECISION No. 4942.

IN THE MATTER OF THE APPLICATION OF COUNTY OF SACRAMENTO  
FOR PERMISSION TO CONSTRUCT A PUBLIC ROAD CROSSING  
OVER THE TRACKS OF THE CENTRAL CALIFORNIA TRACTION  
COMPANY AT BLAKES' CORNER.

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Application No. 2982.

*Decided December 8, 1917.*

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BY THE COMMISSION.

**ORDER OF DISMISSAL.**

Good cause appearing,

*It is hereby ordered* that this application be and the same hereby is  
dismissed without prejudice.

Dated at San Francisco, California, this eighth day of December,  
1917.

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Decisions Nos. 4943 and 4944, grade crossings; not printed. See end of volume.

DECISION No. 4945.

IN THE MATTER OF THE APPLICATION OF THE BOARD OF SUPER-  
VISORS OF THE COUNTY OF COLUSA TO CONSTRUCT A PUBLIC  
COUNTY ROAD AT GRADE ACROSS THE TRACKS OF THE  
SOUTHERN PACIFIC COMPANY IN ROAD DISTRICT NO. 4 IN  
TOWNSHIP 17 NORTH, RANGE 3 WEST.

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Application No. 3341.

*Decided December 13, 1917.*

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Applicant granted permission to construct a crossing at grade across the tracks of  
Southern Pacific Company approximately four miles north of Maxwell, the  
expense thereof to be borne by the county.

*O. N. Kritchfield*, for Board of Supervisors, Colusa County.

*Frank B. Austin*, for Southern Pacific Company.

BY THE COMMISSION.

**OPINION.**

This is a viewer's petition, filed with the supervisors of Colusa  
County, requesting a public crossing at grade over the tracks of the  
Southern Pacific Company, about one mile south of Delavan in Colusa  
County.

A public hearing in the matter was held by Examiner Westover at  
Colusa on December 8, 1917.

The point of crossing is in level country with no obstruction to the view from either direction. There is at present a private crossing at the point in question.

A public road approaches the crossing from the west at right angles with the tracks and continues on east about two miles from the tracks as a private road, passing between sections 10, 11, 14 and 15 of township 17 north, range 3 west to the present county road, running north and south, parallel with the railroad. These roads are separated from the railroad right of way by gates.

The purpose of the application is to enable ranchers living to the east of the tracks to reach the state highway, which parallels the railroad on the west, over a public crossing, and thereby reach Maxwell, about four miles south of the proposed crossing, their trading and market point; and also to enable ranchers living on the west of the tracks engaged in farming rice lands to the east of the track to reach their fields. The nearest crossings are those at Delevan, about one mile north, and at Maxwell, about four miles south. The roads to the east of the railroad track are not paved and in the winter time are in bad condition.

The Southern Pacific Company offers no objection to the crossing if the commission concludes that public convenience requires it, but it wishes to keep a space of about ten feet between the south line of the crossing and the north end of its trestle bridge over Funk's slough, which comes from the west, flows under the trestle and thence to the southeast; and that the cost of the crossing and cattle guard shall be borne by the county. Both of these stipulations are acceptable to the county authorities.

#### ORDER.

A public hearing having been held upon the above-entitled viewer's petition, requesting authority to construct a public crossing at grade over the tracks of the Southern Pacific Company, at the point herein-after described, evidence having been taken, the matter being submitted, and now ready for decision,

*It is hereby ordered* that permission be and it is hereby granted to the board of supervisors of Colusa County, to construct a public crossing at grade over the tracks of Southern Pacific Company, in Colusa County, California, at a point about four miles north of Maxwell and about one mile south of Delevan, said crossing being a continuation or extension of that certain highway running east and west between sections 10 and 11, 14 and 15, of township 17 north, range 3 west; said crossing to be constructed subject to the following conditions:

(1) The entire expense of constructing the crossings, together with the cost of its maintenance thereafter in good and first-class condition

for the safe and convenient use of the public shall be borne by applicant, except the maintenance of that portion between the rails and two feet outside thereof, which shall be borne by the railroad company.

(2) Said crossing shall be constructed of a width and type of construction to conform to that portion of said road hereafter to be graded with grades of approach not exceeding 4 per cent, and shall be protected by a suitable crossing sign, and shall in every way be made safe for the passing thereover of vehicles and other road traffic. Said crossings shall not be located within ten feet of the north end of the bridge of the Southern Pacific tracks at this point.

(3) The commission reserves the right to make such further orders relative to the location, construction, operation, maintenance and protection of said crossings as to it may seem right and proper, and to revoke its permission if, in its judgment, the public convenience and necessity demand such action.

Dated at San Francisco, California, this thirteenth day of December, 1917.

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DECISION No. 4946.

IN THE MATTER OF THE APPLICATION OF THE PEOPLE OF THE STATE OF CALIFORNIA ON THE RELATION OF THE DEPARTMENT OF ENGINEERING FOR AN ORDER AUTHORIZING THE CONSTRUCTION OF A STATE HIGHWAY GRADE CROSSING OVER THE TRACKS OF THE PACIFIC COAST RAILWAY COMPANY AT MILES IN SAN LUIS OBISPO COUNTY, CALIFORNIA, AND ALSO AT A POINT FOUR MILES SOUTH OF SAN LUIS OBISPO, IN SAN LUIS OBISPO COUNTY, CALIFORNIA.

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Applications Nos. 3065, 3066.

*Decided December 13, 1917.*

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Applicant granted permission to construct, at its own expense, two crossings at grade, one at Miles and the other approximately four miles south of San Luis Obispo, provided that an existing crossing in the vicinity is closed to traffic.

*Walter C. Howe*, division engineer, for Applicant.

*J. M. Sims*, for The Pacific Coast Railway Company.

*E. W. Black*, chairman, for board of supervisors.

BY THE COMMISSION.

OPINION.

Above applications are for an order authorizing applicant to construct the state highway at grade across the tracks of The Pacific Coast Railway Company at Miles, about 9 miles south of San Luis Obispo, and also at a point about 4 miles south of San Luis Obispo, both in San

Luis Obispo County, and for the abandonment of the old crossing near these points. The applications suggest that an automatic bell at each crossing would be desirable.

A public hearing upon both applications was held by Examiner Westover at San Luis Obispo on December 4.

At the point of crossing at Miles, described in Application No. 3065, the railway extends east and west along the north bank of San Luis Obispo Creek. The highway from the south extends northerly at substantially a right angle with the railroad and crosses it about 200 feet north of the bridge over said creek. After crossing the railroad the highway extends easterly substantially parallel with the railroad for a distance of several miles.

Approaching the crossing from the south at the north end of the bridge, there would be a clear view of the track for a distance of about 1,500 feet to the east, but for a group of willows; and a clear view of the track to the west of the crossing for about 250 feet, but for another group of willows. About one-fourth of the willows referred to in each instance are on the railway right of way and about three-fourths on adjoining private property. The railroad management and the board of supervisors of the county say they will cooperate in having these willows removed.

Approaching the crossing from the east there is a view of the crossing for about 600 feet, obstructed only by a warehouse standing on the right of way about 275 feet east of the crossing. The railroad management promises to remove the warehouse as soon as the present crop of grain and beans now stored in it are removed.

At present the railroad company has an order in force providing that trains approaching the crossing from the west shall be under full control and capable of being stopped within 100 feet. The management is willing to put in force a similar rule governing westbound trains until the warehouse in question is removed.

At the point of crossing about four miles south of San Luis Obispo, described in Application No. 3066, the railway and highway extend substantially north and south along a narrow valley at the base of low hills to the west, and are substantially parallel, the railway track being crossed by the highway at a sharp angle. The highway is at a higher elevation than the railway to the south of the crossing, affording a good view of the railroad for a distance of 1,000 feet or more in each direction. There is an equally good view of the highway from the cab of a locomotive, a bank of earth between the highway and the tracks to the south of the crossing being so low as to offer no obstruction to the view. The parties agree that no protection is needed at this crossing, other than the crossing signs already installed, and none at

the Miles crossing if the willows are cut and warehouse removed or slow order put in force.

The railroad company operates but one train a day between San Luis Obispo and Port San Luis, on which portion of the road both of the above crossings are located, and at a maximum speed of 15 miles per hour. Trains pass over the above crossings in the middle of the day only.

The former crossing at Miles was located about 300 feet west of the present crossing, and the former crossing about four miles south of San Luis Obispo was located about 1,600 feet south of the present crossing. Both of these earlier crossings have been abandoned and are closed to the public.

#### ORDER.

*It is hereby ordered* that permission be hereby granted the people of the state of California, on relation of the department of engineering, to construct two crossings at grade over the tracks of The Pacific Coast Railway Company; the first located at Miles, and the second at a point about four miles south of San Luis Obispo, in San Luis Obispo County, California; to be located as shown by the maps attached to the applications; said crossings to be constructed subject to the following conditions, viz:

(1) The entire expense of constructing the crossings, with the cost of their maintenance thereafter in good and first-class condition for the safe and convenient use of the public, shall be borne by applicant, except that portion between the rails and two feet outside thereof, which shall be maintained by the railway company.

(2) The railway company shall move the warehouse located near the crossing at Miles to a point at least 500 feet distant therefrom, and until said warehouse shall be moved, westbound trains shall not exceed a speed of five (5) miles per hour over the crossing.

(3) The grade crossings located respectively about 300 feet west of the said Miles crossing and about 1,600 feet south of the said crossing located about four miles south of San Luis Obispo shall be abandoned and closed to the use of the public.

(4) The commission reserves the right to make such further orders relative to the location, construction, operation, maintenance and protection of said crossings as to it may seem right and proper, and to revoke its permission if, in its judgment, the public convenience and necessity demand such action.

Dated at San Francisco, California, this thirteenth day of December, 1917.

## DECISION No. 4947.

IN THE MATTER OF THE APPLICATION OF CORCORAN WATER AND GAS COMPANY FOR AN ORDER AUTHORIZING AN INCREASE IN RATES.

Application No. 3027.

*Decided December 13, 1917.*

Conditions warranting, an increased schedule of flat rates is established for the system of applicant, to become effective within twenty days. A schedule of meter rates is also established and applicant is required to file a rule to the effect that a meter will be installed for any consumer upon request, provided the cost thereof is deposited with the company, such amount to be returned at the rate of a one-twelfth credit on each monthly bill. Meters may also be installed at option of the company.

*J. B. Mayer*, for Applicant.

*K. Van Zante*, for city of Corcoran.

BY THE COMMISSION.

## OPINION.

This is an application by the Corcoran Water and Gas Company, a public utility corporation, hereinafter referred to as applicant, engaged in the business of supplying water to the people of Corcoran, Kings County, for authority to increase its rates charged for water to its consumers.

A public hearing in this proceeding was held by Examiner Westover in Corcoran.

The application alleges in effect that the existing rates do not produce a sufficient revenue to return to applicant the expense of operation, depreciation and interest on the money invested. The present rates in effect were established by the water company for each consumer served, there being no definite basis for the establishment of a flat rate charge, and no measured rate schedule is in existence. The system is unmetered and the charge under the monthly flat rate schedule varies from a minimum of \$1.00 per month for small houses to \$50.00 per month for the Santa Fe Railway. The contract for the Santa Fe Railway provides for a charge of 5 cents per thousand gallons with a \$50.00 monthly minimum. A resume of the rates collected follows:

60 consumers are now paying	\$1.00 per month.
15 consumers are now paying	1.25 per month.
71 consumers are now paying	1.50 per month.
29 consumers, are now paying	1.75 per month.
8 consumers are now paying	2.00 per month.
2 consumers are now paying	2.50 per month.
3 consumers are now paying	3.00 per month.
1 consumer is now paying	4.00 per month.
1 consumer is now paying	5.00 per month.
1 consumer is now paying	8.00 per month.
1 consumer is now paying	10.00 per month.
1 consumer is now paying	50.00 per month.

In 1905 the Security Land and Loan Company purchased a tract of some 25,000 acres surrounding and including what is now the town of Corcoran. This tract was subdivided and marketed including the present townsite. The company, as a part of the necessary procedure before it could market its townsite, constructed the water plant. Mr. Mayer, the present owner of applicant's stock, was secretary of the land company and was its agent at Corcoran. He operated the water system as such for four years. In 1909 the tract was practically all sold. The Security Land and Loan Company desired to incorporate and therefore organized the Corcoran Water and Gas Company. Mr. Mayer at that time bought a small interest in the water company, the balance being held by the stockholders of the Security Land and Loan Company. About one year ago Mr. Mayer purchased the entire stock issue and is thus the owner of the system.

The utility property consists of four wells from which water is pumped into a 50,000-gallon tank on an 80-foot steel tower, whence it is distributed throughout the town by steel and iron pipes.

On February 11, 1917, a complaint was filed against applicant by the city of Corcoran, entitled "*City of Corcoran vs. Corcoran Water and Gas Company*, Case No. 915," reported in Vol. 9, Opinions and Orders of the Railroad Commission of California, at page 475. This complaint alleges in effect that the consumers are required to bear the cost of all extensions. Investigation sustained these contentions and the Corcoran Water and Gas Company was ordered to make improvements in its system, and discontinue certain practices. The improvements are now practically completed. An investigation of the records of the company shows a total cost of improvements of \$15,079.00. In this proceeding the applicant states that cost of rehabilitation is one of the reasons for an increase in rates.

An estimate of the cost of this system as of February, 1916, was presented in Case No. 915 by Assistant Engineer H. F. Clark. It was stipulated that the evidence submitted in the above-mentioned case be considered in this proceeding. Mr. Clark reported an estimated cost new of \$17,634.00 and a depreciated cost of \$11,932.00. He stated in his report that the book cost of the system to that date was \$14,947.00, but that some duplication of items was included in this sum. There is also included the sum of \$10,000.00 which was set up on the company's books as the first cost of the plant. This sum in reality was the amount of stock issued, the cost of the plant as shown by the testimony being \$7,500.00. Assistant Engineer C. H. Loveland submitted a report which shows a total net investment to date of \$24,094.00.

Considering the history of this system and its operations since its inception and the present conditions in Corcoran, it appears fair to use

the actual investment as the basis upon which to compute the return. The commission's engineers also report that an annuity of \$702.00 will be adequate to replace the property at the time when it becomes fully depreciated. The following tabulation shows the total collections for the past three years, maintenance and operation expense, the number of service connections and the population served:

	1914	1915	1916	First 8 months 1917
Collections -----	\$3,772 00	\$3,063 00	\$3,344 00	\$2,481 00
Expenses -----	2,252 00	2,444 00	2,531 00	2,398 00
Number services -----		143 00	-----	212 00
Population served -----		700 00	900 00	-----

The amount shown as collections is the amount actually collected during the year and falls far short of the total revenue computed from a survey of the users at the present rates. For example the monthly income for August, 1917, is \$361.50, computed at the present rates, whereas only \$296.25 was collected. The total annual revenue computed on the basis of the present rate schedule for the number of consumers served in August, 1917, would be \$4,338.00. This apparent loss in collections is abnormal and especially in view of the fact that systems operating under flat rate schedules collect at the beginning of each month.

The evidence shows that the town of Corcoran is rapidly increasing in population. Records of the past twenty months show an increase of 30 per cent annually. It appears that the future growth will be somewhat slower but undoubtedly the growth will be sufficient to increase the revenue of this company in the coming year to such an extent that if the present rate schedule were continued in effect it would produce a revenue of at least \$5,000.00 annually.

The commission's engineers submitted an estimate of the cost of operating this plant based upon a detailed analysis of records of this company, and the cost of operating similar plants, and suggest \$2,161.00 as a fair amount to be included in the annual charges therefor. This sum does not include cost of power. Only recently this company installed new pumps and motors. It is estimated that \$1,200.00 is a liberal annual allowance for power.

The total estimated annual charges are as follows:

Interest on \$24,094.00 at 8 per cent-----	\$1,928 00
Maintenance and operation-----	3,361 00
Annuity -----	703 00
Total -----	\$5,992 00

It is apparent that the present rate schedule does not produce a sufficient income to return to applicant the expense of operation, depreciation and interest on investment.



It now remains to compute a rate schedule which will produce this required revenue. Data were submitted at the hearing setting forth the extent of the property of the various consumers. From this data the rate schedule which is set forth in the order following has been computed. It is estimated that this rate schedule will produce at least \$6,000.00 annually. In this connection we desire to call attention to the fact that it is impossible to arrive at an equitable distribution of the expenses of this system among its various consumers by a schedule of flat rates. An increase in rates may work a hardship on some consumers while others will not be paying their fair share.

This commission has stated in a number of instances that a measured system of rates is the only method in which each consumer bears his fair portion of the expense and we desire to recommend that this utility proceed to install meters and charge at the metered rates set out in the order following:

#### ORDER.

Corcoran Water and Gas Company having applied to the Railroad Commission for an order authorizing it to increase its rates for water sold for domestic uses, and a public hearing having been held and the matter being now ready for decision, the Railroad Commission of the state of California hereby finds as a fact that the rates herein established are just and reasonable rates and that the rates heretofore charged by the Corcoran Water and Gas Company are unjust and unreasonable, in so far as they differ from the rates herein established.

Basing its order on the foregoing findings of fact and on the further findings of fact contained in the opinion preceding this order,

*It is hereby ordered* that the Corcoran Water and Gas Company be and the same is hereby authorized to file with the Railroad Commission within twenty days from the date of this order and thereafter charge the following rates for water served to the inhabitants of Corcoran and vicinity:

#### Rate Schedule.

	Per month
1. For residences of not more than five rooms occupied by single families----	\$1.00
For each additional room-----	.10
Private bathtubs or toilets each-----	.15
2. For hotels and lodging houses, in addition to the family rate for each room with water tap-----	.20
For each room without water tap-----	.10
3. For toilet in hotels or public places-----	1.00
For each additional toilet-----	.25
4. For one public bathtub in hotels, lodging houses or bathing establishments	1.50
For each additional bathtub-----	.50
For each private bathtub in hotels or lodging houses-----	.20
5. For restaurants and dining rooms of hotels-----	3.00
6. For stores and shops including water for washing windows and sidewalks—	
Floor space 400 square feet or less-----	1.00
Floor space 400 square feet to 600 square feet-----	2.00

	Per month
7. For large stores and warehouses, including water for washing windows and sidewalks—	
Floor space 500 to 800 square feet .....	\$3.00
Floor space 800 square feet or over .....	4.00
8. For photograph galleries .....	\$2.00 to 5.00
9. For rooms on second and third stories, occupied as offices, for each room with water tap .....	.50
10. For doctors' or dentists' offices not exceeding two rooms, with water tap	1.50
Each additional room with water tap .....	.50
11. For bakeries, in addition to store rate, for each barrel of flour used .....	.05
12. For soda fountains, in addition to store rate .....	2.00
13. For blacksmith, wagon or machine shops, where one forge is used .....	1.50
For each additional forge used .....	.25
14. For livery, feed and sales stables—	
Per average number of stock fed, each .....	.20
Per average number of vehicles, each .....	.20
Minimum payment .....	2.00
15. For private stables, for one horse and buggy, including water for washing same .....	.50
For each additional horse or cow .....	.10
For each additional vehicle .....	.20
16. For public garages, including water for washing cars, minimum payment ..	2.00
For each car .....	.50
17. For private garages, including water for washing cars, for each car kept ..	.50
18. For barber shops where not more than one chair is used .....	1.00
For each additional chair .....	.50
19. For use of cold storage machines, in addition to store or warehouse rates .....	\$2.00 to 4.00
20. For laundries or wash houses .....	\$3.00 to 8.00
21. For public water troughs, for each trough .....	\$1.00 to 3.00
22. For public halls, clubs or lodge rooms .....	1.00
23. For fountains not to be used more than six hours per day for 1/16 inch jet .....	2.00
For 1/4-inch jet .....	4.00
For 1/2-inch jet .....	10.00
Provided that where fountains with no drain pipes are used for lawn irrigation purposes, such use shall be regulated by the provisions of subdivision 25 herein.	
24. For the irrigation of lawns, gardens and grounds by use of hose for sprinkling when taken with water for household purposes, for the first 100 square yards of ground irrigated .....	.50
For each square yard over 100 square yards and not exceeding 300 square yards .....	.00½
For each square yard over 300 square yards and not exceeding 1,300 square yards .....	.00¼
For each square yard over 1,300 square yards .....	.00½
25. For steam engines not working over ten horsepower per day, for each horsepower so used .....	.25
For all working over ten horsepower per day, for each horsepower so used ..	.20
26. For gasoline engines, per horsepower .....	.10
27. For building and plastering for water used by plasterers for use in slaking each barrel of lime .....	.10
For water used by brick layers to make mortar and dampen brick, for each 1,000 bricks laid .....	.10
For water used to dampen lath, per 1,000 .....	.10
For water used to moisten cement, per barrel .....	.10

	Per month
28. For water used to settle earth when replacing it in a ditch, for each cubic yard of earth -----	.01
29. Water for all purposes not specified in the above will be delivered by the measured rate -----	

*Measured Rates.*

	Per month
400 cubic feet or less -----	\$1.00
	Per 100 cubic feet
For water used between 400 and 1,000 cubic feet -----	.15
For water used between 1,000 and 10,000 cubic feet -----	.10
Over 10,000 cubic feet -----	.05

*It is hereby further ordered* that the Corcoran Water and Gas Company be and it is hereby ordered to file with the Railroad Commission within twenty days from the date of this order and thereafter put into effect the following rule:

A meter will be installed on any service upon the request of the consumer provided the consumer deposit the estimated cost of the installation. Any amount above actual cost will be returned when installation is complete and the remainder of deposit applied on water bills at the rate of one-twelfth per month. The company may install meters at its option.

Dated at San Francisco, California, this thirteenth day of December, 1917.

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DECISION No. 4948.

IN THE MATTER OF THE APPLICATION OF THE PACIFIC TELEPHONE AND TELEGRAPH COMPANY FOR AN ORDER OF THE RAILROAD COMMISSION OF CALIFORNIA GRANTING IT A CERTIFICATE THAT PUBLIC CONVENIENCE AND NECESSITY REQUIRE THE EXERCISE BY IT OF THE RIGHTS AND PRIVILEGES CONFERRED UPON IT UNDER THE FRANCHISE GRANTED IT BY THE BOARD OF TRUSTEES OF THE TOWN OF SAUSALITO, BY ORDINANCE NO. 264, ON THE SIXTH DAY OF AUGUST, 1917,

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Application No. 3368.

*Decided December 13, 1917.*

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BY THE COMMISSION.

**ORDER.**

The Pacific Telephone and Telegraph Company having applied to this commission for a certificate declaring that public convenience and necessity require the exercise by it of the franchise privileges conferred by Ordinance No. 264 of the town of Sausalito, attached to the application herein and marked Exhibit "B," which ordinance grants to said company, its successors and assigns, the right to place, erect and maintain poles, wires and other appliances and conductors, and to

lay underground conductors for wires for the transmission of electricity for telephone and telegraph purposes, in, upon and under the streets, alleys, avenues, thoroughfares and public highways, in the town of Sausalito, state of California, and to exercise the privilege of operating telephone and telegraph instruments and of doing a telephone and telegraph business within said town of Sausalito; and the commission being of the opinion that this is not a case in which a public hearing is necessary and that said application should be granted,

*It is hereby ordered* that said application be and the same is hereby granted; provided, that neither said applicant, its successors nor assigns, shall ever claim before this commission, or any other public body, a value for said franchise for rate fixing or other purposes in excess of the amount actually paid to the town of Sausalito as the consideration for the grant of such franchise, which amount appears from the application herein to be \$271.75.

Dated at San Francisco, California, this thirteenth day of December, 1917.

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#### DECISION No. 4949.

IN THE MATTER OF THE APPLICATION OF BOARD OF SUPERVISORS OF LOS ANGELES COUNTY ON BEHALF OF LOS ANGELES COUNTY WATERWORKS DISTRICT NO. 1, AND OF J. W. McDONALD, WALTER F. SAGAR, WALTER C. RUNYON AND A. H. GREENSHIELDS, AS TRUSTEES OF ATHENS AND WOODCREST WATER COMPANY, FOR PERMISSION TO PURCHASE AND SELL, RESPECTIVELY, CERTAIN REAL PROPERTY AND CERTAIN PUMPING MACHINERY.

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Applications Nos. 3324, 3325.

*Decided December 13, 1917.*

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Permission granted permitting the transfer for the sum of \$1,800.00, of a small water system in the county of Los Angeles to the board of supervisors of said county on behalf Los Angeles County Waterworks District No. 1.

*Edward T. Bishop* and *J. Allen Davis*, for Los Angeles County.

*Andrew J. Copp*, for Trustee Walter C. Runyon.

*Byron C. Hanna*, for certain other trustees.

BY THE COMMISSION.

#### OPINION.

The board of supervisors of Los Angeles County, acting on behalf of Los Angeles Waterworks District No. 1, and Messrs. J. W. McDonald, Walter F. Sagar, Walter C. Runyon and A. H. Greenshields, as trustees of Athens and Woodcrest Water Company, an unorganized association, join in applying for authority to said trustees to convey to said waterworks district a lot 39 by 113 feet, together with a pump-

ing plant thereon, located at Athens Heights near Los Angeles for the agreed purchase price of \$1,800.00.

Some years ago Emil Firth subdivided and laid out a tract of land subsequently known as Athens Heights and as part of the plan constructed the said pumping plant on the rear portion of lot No. 153, and laid a system of distributing pipes. Purchasers of lots received deeds providing that they, their heirs or assigns, should at all times be entitled to secure water from said pumping plant at the ruling rates.

On or about April 29, 1911, said Firth notified the consumers of said system that he would on May 15, 1911, discontinue the operation of the plant and system and offered to turn the said property over to a board of trustees to be chosen by the consumers. Five trustees were accordingly chosen and the parcel of land and pumping plant were conveyed to them by Firth and wife, of whom the four trustees as applicants herein, are successors in trust as was found by the Superior Court of Los Angeles County in an action for accounting between said trustees, being Case No. B45735, the final decree of which said case provides for the distribution of the assets of the trust including a credit of \$1,042.50 due from the county of Los Angeles. Said credit of \$1,042.50 is the balance of the agreed purchase price of \$1,800.00 for said lot and pumping plant, after the payment by the county of agreed debts of the trust amounting to \$700.00 and \$57.50, respectively, incurred for extensions and improvements to said water system.

Los Angeles County Waterworks District No. 1 is organized under the act approved April 25, 1913, for the purpose of furnishing water for domestic use to the inhabitants of the district which includes Athens Heights and Woodcrest. The district was organized to facilitate the extension and improvement of the system for which it has voted bonds of \$30,000.00.

The rate originally collected by the trustees, who operated under the fictitious name of Athens and Woodcrest Water Company, was \$2.00 per thousand cubic feet, but this was subsequently reduced to \$1.00 per thousand cubic feet and 7½ cents per hundred cubic feet for excess water. At this rate it is now distributed and sold by the trustees. The district expects to continue this rate after the transfer of the pumping plant to it.

Quitclaim deeds of Firth and wife and the five original trustees and a grant deed by the present trustees have been executed and placed in escrow awaiting the commission's authority to make the transfer before the deeds are delivered.

The pumping plant installed cost new May 4, 1915, \$1,775.00, which with some incidentals brought the entire cost new to \$1,809.88. The portion of the lot which the plant is erected on is valued by the trustees at \$400.00 to \$500.00.

## ORDER.

The board of supervisors of Los Angeles County, acting on behalf of Los Angeles Waterworks District No. 1, and Messrs. J. W. McDonald, Walter F. Sagar, Walter C. Runyon and A. H. Greenshields, as trustees of Athens and Woodcrest Water Company, an unorganized association, having applied for an order authorizing said trustees to convey for said water district the property hereinafter described, a public hearing having been held thereon, and the matter having been submitted and being now ready for decision,

*It is hereby ordered* that J. W. McDonald, Walter F. Sagar, Walter C. Runyon and A. H. Greenshields, as trustees of Athens and Woodcrest Water Company, an unorganized association, are hereby authorized to convey to the board of supervisors of Los Angeles County on behalf of the Los Angeles County Waterworks District No. 1, land in Los Angeles County, described as follows:

“Beginning at a point in the southwest corner of lot one hundred and fifty-three, Athens Heights, as per plat of said tract recorded in Book 9, page 170 of Maps, records of Los Angeles County; running thence northerly 39 feet parallel with the west line of said lot to a point; thence easterly parallel with the south line of said lot 113 feet to a point; thence southerly parallel with the west line of said lot 39 feet to a point in the southerly line thereof; thence westerly along the south line of said lot 113 feet to the point of beginning, all of said property lying and being in the county of Los Angeles, state of California.”

together with the pumping plant and machinery thereon located, consisting of the following:

- 1 No. 1510 pump head,
- 1 6½ x 66" cylinder with 3-cup double plungers,
- 140 feet of 8" casings,
- 140 feet of double rods,
- 1 10-horsepower General Electric motor,
- 1 No. 9610 self-starter, and Cutler-Hammer float switch,
- 1 motor base,
- 1 self-oiler,

for the agreed purchase price of \$1,800.00, the sum of \$757.50 thereof to be paid in satisfaction of certain obligations of said trustees as described in the agreement dated June 25, 1917, between the board of supervisors of Los Angeles County and the said trustees and the balance of \$1,042.50 to be paid to said trustees as provided in said agreement and to be by them distributed pursuant to the final decree of the Superior Court of Los Angeles County in said Case No. B45735, *I. W. McDonald et al. vs. Walter C. Runyon*.

The above authority is given upon the following conditions:

1. Nothing herein contained shall be construed in any proceeding before this commission or any court, tribunal or public body as a

finding by this commission of the value of the property authorized to be conveyed, for any purpose other than the purposes of this proceeding.

2. Said Los Angeles Water District No. 1 shall assume and discharge all of the obligations to serve the public at any time heretofore resting upon said trustees or their predecessors in trust.

3. The approval of said instruments of conveyance is for the purpose of this proceeding, only, and only in so far as this commission has jurisdiction under the terms of the Public Utilities Act; and is not intended as an approval of said instruments of conveyance as to any other legal requirements to which they may be subject.

4. The authority herein contained shall extend only to such conveyances of real or personal property as shall have been delivered within sixty days from date hereof.

5. Within ten days after the delivery of any such instrument of conveyance, said trustees shall make verified written report to the commission of the fact and date of delivery of such conveyance, together with a certified copy thereof and a statement of the disposition of the proceeds of said sale.

Dated at San Francisco, California, this thirteenth day of December, 1917.

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DECISION No. 4950.

IN THE MATTER OF THE APPLICATION OF SAN FRANCISCO-OAKLAND TERMINAL RAILWAYS FOR AUTHORITY TO ISSUE PROMISSORY NOTES TO REFUND NOTES HERETOFORE AUTHORIZED BY THE COMMISSION AND TO PLEDGE ITS GENERAL LIEN MORTGAGE BONDS TO SECURE THE PAYMENT OF SAID NOTES.

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Application No. 3365.

*Decided December 13, 1917.*

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Applicant granted permission to issue its 6 per cent demand notes in an aggregate sum of \$218,459.64, and to issue and pledge as security therefor \$337,000.00 face value of its general lien bonds, such notes to be issued in renewal of outstanding obligations.

W. H. Smith, for Applicant.

THELEN, *Commissioner*.

**OPINION.**

This is an application of San Francisco-Oakland Terminal Railways for authority to issue its demand notes in the amount of \$218,459.64 to refund notes issued pursuant to Decision No. 2955, dated December 3, 1915 (Vol. 8, Opinions and Orders of the Railroad Commission of California, p. 596). Applicant also asks authority to issue and pledge \$337,000.00 of its general lien bonds heretofore authorized to

be issued and pledged to secure the payment of notes which it now desires to refund.

In Decision No. 2955, dated December 3, 1915, the commission referred to its previous decisions under which these notes and bonds have been issued.

It is, of course, understood that the authority herein granted does not commit the commission directly or indirectly to a favorable determination of either Application No. 990 or No. 1152.

I herewith submit the following form of order:

#### ORDER.

San Francisco-Oakland Terminal Railways having made application to the Railroad Commission for authority to issue its 6 per cent demand notes in the sum of \$218,459.64, and to pledge general lien mortgage bonds in the face value of \$337,000.00, and a public hearing having been held,

*It is hereby ordered* that San Francisco-Oakland Terminal Railways be and it is hereby given authority to issue its 6 per cent demand notes in the sum not to exceed \$218,459.64, and to issue and pledge to secure the payment of said notes \$337,000.00 face value of its general lien bonds, said bonds to be issued under applicant's general lien mortgage, copy of which has been filed with the commission in connection with Application No. 990.

The authority herein given is given upon the following conditions and not otherwise:

1. The notes and bonds herein authorized shall be issued to the banks hereinafter mentioned in lieu of notes and bonds now held by them in the following amounts:

Payee	Date of issue	Term	Rate of interest	Face amount of notes issued	Number of \$1,000 general lien mortgage bonds produced as collateral
Central National Bank of Oakland..	Dec. 15, 1915	1 day	6	\$28,000 00	42
Bank of California, N. A.....	Dec. 15, 1915	1 day	6	28,000 00	42
Savings Union Bank and Trust Co..	Dec. 15, 1915	1 day	6	28,600 00	42
Anglo and London-Paris National Bank .....	Dec. 15, 1915	1 day	6	28,000 00	42
Oakland Bank of Savings.....	Dec. 15, 1915	1 day	6	28,000 00	42
Central National Bank of Oakland..	Dec. 15, 1915	1 day	6	8,569 94	14
Bank of California, N. A.....	Dec. 15, 1915	1 day	6	8,569 94	14
First National Bank of Oakland.....	Dec. 15, 1915	1 day	6	6,089 94	10
Savings Union Bank and Trust Co..	Dec. 15, 1915	1 day	6	8,569 94	14
Anglo and London-Paris National Bank .....	Dec. 15, 1915	1 day	6	8,569 94	14
Oakland Bank of Savings.....	Dec. 15, 1915	1 day	6	8,569 94	14
Central National Bank of Oakland..	Dec. 15, 1915	1 day	6	29,526 00	47
<b>Totals</b> .....				\$218,459 64	337



2. The notes herein authorized to be issued shall be issued only to the payees herein specified, who shall agree to hold said notes until the notes are paid or refunded.

3. As payments are made from time to time on the notes herein authorized, bonds issued as collateral thereon shall be returned to applicant's treasury in the amount of \$1,000.00 of bonds for each \$666.66 of payments on any notes, which bonds shall not thereafter be again issued without the approval of this commission.

4. Within fifteen (15) days after the issue of any notes herein authorized to be issued, applicant shall report to this commission the name of the payee of the note thus issued, the face value thereof, the term of the note, the rate of interest and the face value of the bonds pledged as collateral security for such note.

5. The authority herein granted shall apply only to such notes and to such bonds as shall have been issued on or before February 1, 1918.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the state of California.

Dated at San Francisco, California, this thirteenth day of December, 1917.

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DECISION No. 4951.

IN THE MATTER OF THE APPLICATION OF CLEAR LAKE RAILROAD COMPANY FOR AN ORDER AUTHORIZING THE ISSUANCE OF STOCK AND BONDS.

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Application No. 651.

*Decided December 13, 1917.*

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BY THE COMMISSION.

**THIRD SUPPLEMENTAL ORDER.**

Whereas Clear Lake Railroad Company pursuant to the order in Decision No. 4833, dated November 13, 1917, filed with the Railroad Commission for approval a copy of its proposed construction contract with Guy L. Hardison, said contract having been marked for purposes of identification "Exhibit No. 6, Amended Second Supplemental Application No. 651"; and

Whereas because of the terms of said contract, Condition No. 10 of the order in Decision No. 4833, dated November 13, 1917, may be vacated and set aside; now, therefore,

*It is hereby ordered* that the construction contract between Clear Lake Railroad Company and Guy L. Hardison, filed with this commis-

sion and marked "Exhibit No. 6, Amended Second Supplemental Application No. 651," be and the same is hereby approved.

*It is hereby further ordered* that condition number ten (10) of the order in Decision No. 4833, dated November 13, 1917, be and the same is hereby vacated and set aside.

*It is hereby further ordered* that the order in Decision No. 4833, dated November 13, 1917, shall remain in full force and effect except as modified by this third supplemental order.

Dated at San Francisco, California, this thirteenth day of December, 1917.

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DECISION NO. 4952.

IN THE MATTER OF THE APPLICATION OF SANTA BARBARA GAS AND ELECTRIC COMPANY FOR A MODIFICATION OF RULE 2 OF THE RULES AND REGULATIONS OF THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA, AS ESTABLISHED BY DECISION NO. 2876.

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Application No. 3370.

*Decided December 13, 1917.*

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BY THE COMMISSION.

**ORDER.**

Whereas Santa Barbara Gas and Electric Company has filed its application for modification of Rule 2 of the Rules and Regulations of the Railroad Commission as established by Decision No. 2876, which rule refers to the amount of deposit which may be required for residence and domestic service; and

Whereas Santa Barbara Gas and Electric Company requests authority to so modify said rule as to make effective the rule which the commission, in Decision No. 4724, authorized Southern California Edison Company and Southern California Gas Company to file and make effective; and

Whereas it appears that conditions of the Santa Barbara Gas and Electric Company's gas and electric service are very similar to those of Southern California Gas Company and Southern California Edison Company,

*It is hereby ordered* that Santa Barbara Gas and Electric Company be and the same is hereby authorized to file and make effective the

Following rule covering the making of deposits to guarantee bills for gas and electric service:

*Deposits for Residence and Domestic Gas or Electric Service.*

Applicants for residence and domestic gas or electric service who are required to make cash deposits to guarantee the payment of bills shall make deposits in accordance with the following classifications:

Residences, flats, apartments or dwellings of four active rooms or less:

Temporary seasonal occupancy-----	\$2 00
Permanent occupancy -----	1 50
Residences or dwellings of five, six and seven active rooms-----	2 50
Residences or dwellings of eight or more active rooms-----	5 00

In determining the number of "active rooms," cellars, halls, bathrooms, pantries or porches will not be considered as active.

Dated at San Francisco, California, this thirteenth day of December, 1917.

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DECISION No. 4953.

IN THE MATTER OF THE APPLICATION OF PLAZA STAGES, A COPARTNERSHIP, FOR CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY TO OPERATE A STAGE SERVICE BETWEEN SAN DIEGO AND CAMP KEARNY, CALIFORNIA.

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Application No. 3333.

*Decided December 13, 1917.*

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BY THE COMMISSION.

**FIRST SUPPLEMENTAL ORDER.**

In accordance with the order heretofore made in this proceeding on November 27, 1917, Plaza Stages, a copartnership composed of R. S. Anthony and J. S. Bothwell, as copartners, has filed with the Railroad Commission certified copies of permits from the board of supervisors of San Diego County and from the common council of the city of San Diego, as required by section 3 of chapter 213, laws of 1917.

Dated at San Francisco, California, this thirteenth day of December, 1917.

## DECISION No. 4954.

IN THE MATTER OF THE APPLICATION OF HOLTON POWER COMPANY FOR AN ORDER OF THE RAILROAD COMMISSION AUTHORIZING APPLICANT TO FILE, ESTABLISH AND PUT INTO EFFECT NEW BLOCK SYSTEM POWER SCHEDULE "B" AS A SUBSTITUTE FOR THE PRESENT "B" SCHEDULE, WHICH CHANGE WILL RESULT IN A NET LOSS OF REVENUE TO THE COMPANY AND A GENERAL REDUCTION OF RATES TO OPERATORS UNDER EXISTING SCHEDULE, BUT WILL INCREASE THE RATE OF A FEW INDIVIDUALS.

Application No. 3213.

*Decided December 13, 1917.*

Applicant is permitted to put into effect a revised schedule of rates for electric energy, such schedule affecting reductions in the majority of cases, though increasing the rates of several consumers, provided that the consumers whose rates would be increased thereby may continue receiving service under the old schedule.

BY THE COMMISSION.

## ORDER.

Whereas Holton Power Company has filed its application for the withdrawal of its general power schedule "B" and substitute therefor a schedule which is more advantageous in most respects to the consumers than the existing schedule but which will increase the rate paid by certain consumers; and

Whereas it does not appear advisable at the present time to increase the rates to those consumers so affected, but it does appear that benefit will result from the making effective of the proposed schedule as to new consumers and to existing consumers whose rates will not be raised,

*It is hereby ordered* that Holton Power Company be and the same is hereby authorized to withdraw its existing power schedule "B," and to make effective as of January 1, 1918, its revised schedule "B-1" as follows:

*Block System Power Schedule "B-1" Optional for All Classes of Power.*

For the first	20 K. W. H. per month	10 cents per K. W. H.
For the next	180 K. W. H. per month	8 cents per K. W. H.
For the next	400 K. W. H. per month	5 cents per K. W. H.
For the next	400 K. W. H. per month	4 cents per K. W. H.
For the next	1,000 K. W. H. per month	3 cents per K. W. H.
For the next	2,000 K. W. H. per month	2.5 cents per K. W. H.
For the next	6,000 K. W. H. per month	2.2 cents per K. W. H.
In excess of	10,000 K. W. H. per month	2 cents per K. W. H.

*Monthly minimum charge:* Minimum monthly charge for motors of less than two (2) horsepower, rated capacity, will be \$1.20; for motors of two (2) horsepower and over, the charge will be \$1.00 per horsepower, rated capacity, except that for *seasonal* service, such as refrigerating plants, irrigation pumping plants, cotton gins or fruit packing houses, the minimum shall apply only

for the operating season of not less than six (6) consecutive months, to be specified in advance.

Where the operating season is less than six (6) months, the minimum charge for the period, specified in advance shall be equal to the regular six (6) months' minimum, above specified, prorated over the number of months named.

*Prompt payment discount:* When bills accruing under this schedule are paid on or before the twelfth of the month following that in which the service is rendered, a discount of 5 per cent will be allowed from the bill.

*It is further ordered* that as to consumers whose rates would be raised by application of the new schedule "B-1," and who elect to continue on the old schedule "B," the Holton Power Company shall within sixty days from the date of this order file with this commission a list of such consumers as deviations, continuing them as such until such time as each consumer elects to take service under the regular filed rates or until this commission shall authorize a change.

Dated at San Francisco, California, this thirteenth day of December, 1917.

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DECISION No. 4955.

IN THE MATTER OF THE APPLICATION OF COLORADO RIVER TELEPHONE COMPANY FOR AN ORDER AUTHORIZING THE ISSUE OF STOCK.

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Application No. 2738.

*Decided December 13, 1917.*

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Order heretofore made authorizing issue of \$2,000.00 par value of stock covering cost of acquiring applicant's franchise is vacated and set aside, it appearing that the actual cost amounted to only \$314.25, the balance charged thereto being more properly chargeable to organization expenses. Applicant authorized to issue \$2,019.00 par value of stock, \$314.25 par value to cover cost of acquiring franchise, the balance for organization expenses.

BY THE COMMISSION.

**FIRST SUPPLEMENTAL ORDER.**

Whereas the Railroad Commission in Decision No. 4194, dated March 21, 1917, authorized Colorado River Telephone Company to issue 9,574 shares of capital stock of the par value of \$1.00 per share; and

Whereas said order provided that 2,000 shares of said stock, or such portion thereof as might be necessary to reimburse Messrs. Kamrar and Brown for expenditures made in connection with the securing of a franchise from the board of supervisors of Riverside County on September 21, 1914, should only be issued upon supplemental order of this

commission after Colorado River Telephone Company had submitted a statement showing the actual cost of securing said franchise; and

Whereas Colorado River Telephone Company on October 15, 1917, filed a statement with this commission purporting to show that the cost of securing said franchise was the sum of \$2,019.00; and

Whereas it appears to this commission that \$314.25 of the expenditures set forth in said statement are properly chargeable to the cost of securing said franchise and that \$1,704.75 of said expenditures are properly chargeable to organization expense and that applicant may be permitted to issue stock against said expenditures, the money, property or labor to be procured or paid for by such issue being reasonably required for the purposes set forth in the following order which purposes are not in whole or in part, reasonably chargeable to operating expenses or to income.

*It is hereby ordered* that the order in Decision No. 4194, in so far as it authorizes applicant to issue \$2,000.00 par value of stock to reimburse Messrs. Kamrar and Brown for the cost of a franchise granted by the board of supervisors of Riverside County on September 21, 1914, be and the same is hereby vacated and set aside; and that Colorado River Telephone Company be and it is hereby authorized to issue and sell 2,019 shares of capital stock of the par value of \$1.00 per share and to use the proceeds for the following purposes:

One thousand seven hundred four dollars and seventy-five cents to reimburse Messrs. Kamrar and Brown for expenditures in connection with the organization of Colorado River Telephone Company as set forth in a statement filed with the Railroad Commission on October 15, 1917.

Three hundred fourteen dollars and twenty-five cents to reimburse Messrs. Kamrar and Brown for expenditures in connection with the securing of a franchise from the board of supervisors of Riverside County on September 21, 1914, as set forth in a statement filed with the Railroad Commission on October 15, 1917.

*It is hereby further ordered* that the time within which Colorado River Telephone Company may issue the balance of the stock authorized by this commission's Decision No. 4194, dated March 21, 1917, be and it is hereby extended to and including May 30, 1918.

*It is hereby further ordered* that this commission's Decision No. 4194, dated March 21, 1917, shall remain in full force and effect except as modified by this first supplemental order.

The authority herein granted applicant to issue and sell 2,019 shares of stock is granted upon the following conditions and not otherwise:

(1) Said stock shall be sold so as to net Colorado River Telephone Company not less than its full par value of \$1.00 per share.

(2) Colorado River Telephone Company shall keep separate, true and accurate accounts showing the receipt and application in detail

of the proceeds derived from the sale of said stock and on or before the twenty-fifth day of each month shall make a verified report to the commission showing the sale and disposition of said stock, the terms and conditions of such sale and the disposition of the proceeds derived therefrom, all in accordance with this commission's General Order No. 24, which order, in so far as applicable, is made a part of this order.

(3) The authority herein granted applicant to issue and sell 2,019 shares of stock shall apply only to stock issued on or before May 30, 1918.

Dated at San Francisco, California, this thirteenth day of December, 1917.

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DECISION No. 4956.

IN THE MATTER OF THE APPLICATION OF SIERRA AND SAN FRANCISCO POWER COMPANY FOR AN ORDER AUTHORIZING THE ISSUANCE OF FIRST MORTGAGE BONDS OF THE FACE VALUE OF ONE MILLION DOLLARS.

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Application No. 2586.

*Decided December 13, 1917.*

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BY THE COMMISSION.

**NINTH SUPPLEMENTAL ORDER.**

Whereas this commission by Decision No. 4619 dated September 5, 1917, authorized Sierra and San Francisco Power Company to purchase the La Grange Division of Yosemite Power Company for the sum of \$450,000.00, plus the cost of additions and betterments from December 1, 1916, to date of final conveyance; and

Whereas this commission by its eighth supplemental order herein, Decision No. 4691, authorized applicant to use \$450,000.00 of the proceeds obtained from the sale of its \$1,000,000.00 face value of first mortgage 5 per cent 40-year gold bonds, the issue of which was authorized by Decision No. 3816, dated October 24, 1916, for the purchase of the La Grange Division of the Yosemite Power Company as authorized by this commission's Decision No. 4619; and

Whereas applicant has now represented to this commission that the additions and betterments to said properties from December 1, 1916, to September 30, 1917, amounted to \$13,670.87, and has requested authority to use \$13,670.87 of the proceeds from the sale of the \$1,000,000.00 face value of first mortgage 5 per cent 40-year gold bonds above referred to to pay for said additions and betterments; and it

appearing to this commission that applicant's request is reasonable and should be granted and that said expenditures are not in whole or in part reasonably chargeable to operating expenses or to income,

*It is hereby ordered* that Sierra and San Francisco Power Company be and it is hereby authorized to use \$13,670.87 of the proceeds obtained from the sale of its \$1,000,000.00 face value of first mortgage 5 per cent 40-year gold bonds, the issue of which was authorized by Decision No. 3816, dated October 24, 1916, to pay for additions and betterments to the La Grange Division of the Yosemite Power Company, said additions and betterments being set forth in Exhibit "A" attached to the ninth supplemental application herein.

*It is hereby further ordered* that this commission's Decision No. 3816, dated October 24, 1916, as amended by the supplemental orders of the Railroad Commission shall remain in full force and effect except as modified by this ninth supplemental order.

Dated at San Francisco, California, this thirteenth day of December, 1917.

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DECISION No. 4957.

IN THE MATTER OF THE APPLICATION OF SOUTHERN CALIFORNIA EDISON COMPANY FOR AN ORDER OF THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA AUTHORIZING IT TO MAKE, EXECUTE AND DELIVER A TRUST DEED COVERING ALL OF ITS PROPERTY OF EVERY NATURE AND CHARACTER WHATSOEVER TO SECURE A BONDED INDEBTEDNESS AND TO ISSUE, SELL AND DELIVER TEN MILLION DOLLARS FACE VALUE OF BONDS UNDER SAID TRUST DEED.

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Application No. 4957.

*Decided December 13, 1917.*

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BY THE COMMISSION.

**FIFTH SUPPLEMENTAL ORDER.**

Southern California Edison Company having filed with the Railroad Commission a statement showing that it has expended for construction purposes during the month of October the sum of \$492,697.89, and it appearing that the sum so expended was for proper capital purposes and that applicant is entitled to expend \$369,523.42 of the proceeds from the \$3,000,000.00 of bonds referred to in Subdivision "A" of Condition 3 of the order in Decision No. 4463, dated July 19, 1917, to finance in part said construction expenditures; now, therefore,

*It is hereby ordered* that Southern California Edison Company be and it is hereby authorized to use \$369,523.42 of the proceeds from the



\$3,000,000.00 of bonds referred to in Subdivision "A" of Condition "3" of the order in Decision No. 4468, dated July 19, 1917, to pay in part for its construction expenditures during the month of October, 1917.

Dated at San Francisco, California, this thirteenth day of December, 1917.

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DECISION No. 4958.

PURITAS COFFEE AND TEA COMPANY

vs.

ATCHISON, TOPEKA AND SANTA FE RAILWAY COMPANY, LOS ANGELES TRUST AND SAVINGS BANK, AND GODFREY HOLTERHOFF AND F. W. BRAUN.

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Case No. 1071.

*Decided December 13, 1917.*

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Section 39 of the Public Utilities Act provides that any firm or corporation shall have the right to connect with a private spur or track served by a railroad company by payment to parties or party incurring the original expense of such spur, of a reasonable proportion of the cost thereof, provided such use does not unreasonably interfere with the rights of the parties incurring the original expense. As it was found as a fact that the use of the spur in question by complainant would not unreasonably interfere with the business of defendants, such additional use is justified. Petition for rehearing denied.

By THE COMMISSION.

OPINION ON PETITION FOR REHEARING.

The defendants, Los Angeles Trust and Savings Bank, Godfrey Holterhoff, F. W. Braun and W. S. Hook, Jr., have petitioned for rehearing herein upon jurisdictional and other grounds.

Section 39 of the Public Utilities Act, after granting to the Railroad Commission power to require railroads to provide necessary connections and spur tracks, continues:

"Whenever any such connection or spur has been so provided, any corporation or person shall be entitled to connect with the private track, tracks or railroad thereby connected with the railroad of the railroad corporation and to use the same or to use the spur so provided upon payment to the party or parties incurring the primary expense of such private track, tracks or railroad, or the connection therewith or of such spur, of a reasonable proportion of the cost thereof to be determined by the commission after notice to the interested parties and a hearing thereon; *provided*, that such connection and use can be made without unreasonable interference with the rights of the party or parties incurring such primary expense."

This provision, in our opinion, applies not only to spurs constructed in accordance with orders of the Railroad Commission but also to those voluntarily constructed. The present case clearly falls within the latter class.

The agreement under which the spur track involved in this proceeding was constructed and with which complainant desires to connect, expressly provided that:

“Said railway company may use the same for other purposes than the delivery of freight to or the receipt of freight from the second party, provided that such use shall inconvenience the business of the second party as little as possible consistent therewith.”

The obvious intent and understanding of the parties to this agreement was that the spur track should be open to other shippers and receivers of freight in so far as no unreasonable interference resulted to the business of the existing shippers and receivers of freight. The intent and understanding in this agreement appears to us to be in absolute harmony with the provisions of section 39 of the Public Utilities Act, which is that spur tracks over which the railroad company operates shall be regarded as a facility of the railroad system itself.

The commission has found as a fact that the use by complainant of the spur track in question will not unreasonably interfere with the business of defendants.

Section 39 of the Public Utilities Act further provides, however, that in the event that a new connection be made to an existing spur, payment of a reasonable proportion of the initial cost of the spur, as fixed by the Railroad Commission, should be made to the proper parties by the new user. The order of the commission accordingly provides that unless the parties are able to agree upon the reasonable proportion of the primary cost of constructing this spur that the same shall be determined by the Railroad Commission after due notice to parties interested and a hearing thereon.

In their petition for rehearing defendants further refer to the existence of a strip of land between the right of way of the railroad and the property of the complainant, and that it may be necessary that a certain part of this strip of land should be condemned before the proper connection can be made. There is, of course, no attempt in this proceeding to condemn any of the defendants' property. If any part of such strip of land must be condemned, it would have to be condemned by the railroad company in an independent proceeding in which the owners would receive adequate compensation.

The railroad company has not applied for a rehearing and we believe that the point raised is of no concern to the individual defendants who have applied for a rehearing.

It appears to this commission that there is no merit in the petition for rehearing, and that the same should be denied.

**ORDER DENYING PETITION FOR REHEARING.**

*It is hereby ordered* that the petition for rehearing filed in this proceeding on November 23, 1917, be and the same hereby is denied.

Dated at San Francisco, California, this thirteenth day of December, 1917.

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DECISION No. 4959.  
THE CITY OF EAST SAN DIEGO

*vs.*

SAN DIEGO ELECTRIC RAILWAY COMPANY.

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Case No. 1145.

*Decided December 13, 1917.*

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An agreement having been reached between interested parties whereby the city will proceed to secure title to a strip of land along the right of way of defendant, so as to open same to traffic, and the railroad agreeing to improve certain of its trackage, defendant directed to lay one mile of 100-pound rails at points to be agreed upon by both parties, such improvements to be completed within one year.

*F. G. Blood*, city attorney, for Complainant.

*Read G. Dilworth*, for Defendant.

BY THE COMMISSION.

**OPINION.**

Complainant alleges that defendant in constructing its tracks in East San Diego did not follow the route provided in its franchise near the intersection of Scott avenue and Steiner street, now University avenue, but acquired private property at the southeast corner of the intersection, abutting on both streets, and constructed its tracks thereon with the result that eastbound traffic using said streets is compelled to cross defendant's railroad tracks twice at said corner; and that operation over the privately-owned ground causes a dangerous condition. It also alleges that defendant paved between its rails laid in University avenue with a temporary pavement of such character that its tracks have become uneven and dangerous.

The answer is that the tracks were constructed across the corner of the block in question to avoid a reverse curve on a heavy grade, thus improving operating conditions; that a strip of land about fifteen feet in width on the southeasterly side of the tracks has been used as part of the public street since the construction of the tracks in 1907; that it was graded and used with the consent of the former owner; that it was paved by the city and that it is now a public highway or street;

that the owner of the adjoining land has placed an obstruction against use of said strip, which obstruction should be removed by the city and the right to the use of the strip as part of a public street asserted by the city.

A public hearing in the matter was held by Examiner Westover at San Diego on December 5, 1917.

At the hearing the city attorney stated that the city had no objection to the present location of the tracks if the strip in question could be kept open for public travel; but that the city wanted the obstruction removed, defendant's tracks in University avenue improved, and the space between the rails and for two feet on each side permanently paved.

As a result of the hearing an agreement by the parties was reached under which the city is to acquire or procure a confirmation of title to the strip in question, the defendant contributing \$100.00 toward the cost thereof; and the defendant is to improve its tracks as rapidly as its means and other circumstances permit, and relay one mile of one-hundred-pound rails on said University avenue at points to be agreed upon by the parties as most in need of such improvement, as soon as suitable materials can be procured. It appears that the rails are on hand but that necessary track fastenings are not available and may not be for a year. The parties agree that an order to the following effect may be entered:

#### ORDER.

A public hearing having been held in the above-entitled case, the matter being submitted and now ready for decision,

*It is hereby ordered* that as soon as suitable materials can be procured defendant lay in University avenue in the city of East San Diego one mile of one-hundred-pound rails at points to be agreed upon between the parties hereto as most in need of said improvement, said rails to be laid within one year from date.

Dated at San Francisco, California, this thirteenth day of December, 1917.

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#### DECISION No. 4960.

**IN THE MATTER OF THE APPLICATION OF C. M. COPING FOR CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY TO OPERATE STAGE SERVICE BETWEEN GROVELAND AND SONORA.**

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Application No. 3160.

*Decided December 13, 1917.*

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Applicant granted a certificate permitting the operation of an auto stage line for the transportation of passengers between Groveland and Sonora via Big Oak

Flat, Chinese and Jamestown, provided all necessary permits are secured from the public authorities of the territory through which he proposes to operate.

*Rowan Hardin*, for Applicant.

*J. P. Snyder*, for Star Auto Stage Association, Protestant.

By THE COMMISSION.

#### OPINION.

C. M. Copping applies for certificate that public convenience and necessity require him to operate an auto stage in Tuolumne County between Groveland and Sonora via Big Oak Flat, Chinese and Jamestown, a distance of about twenty-eight miles.

A public hearing in the matter was held by Examiner Westover at Sonora.

Applicant proposes to use a seven-passenger Hudson car, making one round trip a day, leaving Groveland at 9.00 a.m., arriving at Sonora at 11.30 a.m., and returning leaving Sonora at 3.00 p.m., arriving at Groveland at 5.30 p.m.

Applicant's proposed fares as follows:

Miles.	Between Groveland—	Groveland	Big Oak Flat	Priests	Jacksonville	Shawmut	Chinese Camp	Chinese Station	Jamestown
1	Big Oak Flat	\$0.10							
	Round trip	.15							
3	Priests	.25	\$0.15						
	Round trip	.40	.25						
14	Jacksonville	1.50	1.40	\$1.25					
	Round trip	2.70	2.55	2.30					
16	Shawmut	1.75	1.65	1.50	\$0.25				
	Round trip	3.25	3.10	2.85	.40				
18	Chinese Camp	2.00	1.90	1.75	.50	\$0.25			
	Round trip	2.50	3.35	3.10	.90	.40			
19	Chinese Station	2.00	1.90	1.75	.50	.25	\$0.05		
	Round trip	3.50	3.35	3.10	.90	.40	.10		
21	Jamestown	2.50	2.40	2.25	1.00	.75	.50	\$0.50	
	Round trip	4.00	3.85	3.60	1.75	1.25	.75	.75	
28	Sonora	3.00	2.90	2.75	1.50	1.25	1.00	1.00	\$0.50
	Round trip	5.00	4.75	4.50	2.50	2.00	1.50	1.50	.75

Five cents per mile for each additional mile thereof.

Applicant has never operated regularly over the route, but has made several trips over it when privately employed for the purpose. He thinks he could procure an average of two passengers per day each way

but offered no facts as a basis for his estimate. The stipulated population of the towns and their several vicinities along the route are as follows: Groveland, 350; Big Oak Flat, 150; Priests, 10; Jacksonville, 40; Shawmut, 10; Chinese, 200; Jamestown, 600; Sonora, the county seat, 3,000.

The only one of them which is incorporated is Sonora. Applicant has made application to Tuolumne County and to the city of Sonora for permit as required by chapter 213, laws of 1917, but no permit has yet been granted.

That portion of the route between Chinese and Groveland at the time of the hearing was served by Baird's Stage Line, which carried the mail, and by F. A. Deister, who operates through stages between Stockton and Sonora and Stockton and Groveland. Star Auto Association, of which he is a member, operates other stages between Stockton and Sonora. All of these Stockton stages operate through Chinese. A schedule of these stage lines, of which all but Mr. Baird are members of Star Auto Stage Association, follows:

Eastbound.						
	A. M. Deister	A. M. Deister	A. M. Lambert	P. M. Young	P. M. Young	Baird
Leave Stockton -----	7.30	7.30	10.30	1.30	3.30	-----
Chinese -----	10.20	-----	1.20	4.20	6.20	-----
Arrive Sonora -----	11.00	-----	2.00	5.00	7.00	-----
			P.M.	P.M.	P.M.	P.M.
Leave Chinese -----		10.20	-----	-----	-----	3.50
Arrive Groveland -----		12.00	-----	-----	-----	7.30

  

Westbound.						
	A. M. Young	A. M. Young	P. M. Deister	P. M. Lambert		Baird
Leave Sonora -----	7.30	10.30	1.30	3.30	-----	-----
Chinese -----	8.20	11.20	2.20	4.20	-----	-----
Arrive Stockton -----	11.00	2.00	5.00	7.00	-----	-----
		P.M.	P.M.	P.M.	A.M.	
Leave Groveland -----		-----	1.00	-----	5.45	
Chinese -----		-----	2.50	-----	8.00	
Arrive Stockton -----		-----	5.00	-----	-----	

Applicant offered testimony tending to show that the stages operating between Stockton and Sonora did not pass through Chinese on their regular routes but followed the state highway about three miles to the north over Mountain Pass; and that they would only pass through Chinese when notified at Stockton or Oakdale by telephone by the Baird line that it was bringing passengers from Groveland or intermediate points desiring to take the stage from Chinese to Sonora; that the result of this arrangement was that passengers were frequently left

in Chinese unable to get to Sonora without hiring automobile especially for the trip. It appears, however, that the custom of going through Mountain Pass and thence direct to Jamestown without visiting Chinese, except upon telephone call, continued only during the time the state highway from Mountain Pass south through Chinese was under construction; that since the completion of that portion of the highway about three months or more ago the regular route has been via Mountain Pass and Chinese to Jamestown and Sonora.

The Deister lines were established about April 1, 1917. The Baird line, which is operated only between Chinese and Groveland, was established long prior to that. In July Mr. Deister carried fourteen passengers between Chinese and Groveland in both directions, in August eighteen, and in September, up to the twenty-eighth, ten. The number of passengers being carried by the older Baird line was not shown.

It appears from the evidence that the public convenience and necessity do not require more transportation service between the communities in question than that above described. The service might be improved by schedules allowing better connections at Chinese. We suggest this for the consideration of the present transportation companies operating in the territory in question. Apparently the establishment of the line proposed by applicant would result in financial loss to him, under conditions existing at the time of the hearing.

Since the hearing, however, the commission has been advised by Mr. Baird that he wishes to cancel his tariff and schedule and retire from the service. We will therefore issue certificate hereafter under the conditions found in the following order:

#### ORDER.

C. M. Copping having filed application asking that the Railroad Commission declare that public convenience and necessity require the operation by said Copping of automobile service as a common carrier of passengers and express packages between Groveland and Sonora via Big Oak Flat and Chinese, all in Tuolumne County, and a public hearing having been held thereon and the matter having been submitted and being now ready for decision, the Railroad Commission hereby declares that public convenience and necessity require the operation by C. M. Copping of automobile service as a common carrier of passengers and express packages between Groveland and Sonora via Big Oak Flat and Chinese, all in Tuolumne County; provided, that this declaration shall not become effective until said Copping has procured from the Railroad Commission a supplemental order herein reciting that said C. M. Copping has filed herein certified copies of permits from the county of Tuolumne and the city of Sonora, as provided by section 3 of chapter 213, laws of 1917; and provided, further, that the rights and privi-

leges herein granted shall not be assigned or transferred unless the written consent of the Railroad Commission to such assignment or transfer has first been procured.

*It is hereby ordered* that no vehicle may be operated under this certificate unless such vehicle is owned by the applicant herein or is leased by such applicant under a contract or agreement on a basis satisfactory to the Railroad Commission.

Dated at San Francisco, California, this thirteenth day of December, 1917.

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DECISION No. 4961.

IN THE MATTER OF THE APPLICATION OF PRESS TRANSPORTATION COMPANY FOR CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY TO OPERATE STAGE OR TRUCK SERVICE BETWEEN SANTA BARBARA AND SANTA MARIA.

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Application No. 3320.

*Decided December 13, 1917.*

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BY THE COMMISSION.

**ORDER.**

A public hearing on the above-entitled application having been held by Examiner Westover at Santa Barbara on November 28, 1917, at which testimony was taken on behalf of applicant and protestants, as a result of which applicant has requested an indefinite continuance of the matter for further hearing in the future, or permission to withdraw without prejudice.

*It is hereby ordered* that the application be and it is hereby dismissed without prejudice.

Dated at San Francisco, California, this thirteenth day of December, 1917.

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DECISION No. 4962.

IN THE MATTER OF THE APPLICATION OF DELTA TELEPHONE AND TELEGRAPH COMPANY FOR AUTHORITY TO PURCHASE THE PROPERTIES AND BUSINESS OF NEW FREEPORT TELEPHONE AND TELEGRAPH COMPANY AND TO ISSUE ITS CAPITAL STOCK IN EXCHANGE THEREFOR; AND OF NEW FREEPORT TELEPHONE AND TELEGRAPH COMPANY TO SELL PROPERTIES AND BUSINESS AS AFORESAID.

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Application No. 3078.

*Decided December 13, 1917.*

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Freeport Telephone Company authorized to transfer its telephone exchange and system to the Delta company and the latter to issue \$40,950.00 par value of



common and \$40,000.00 par value of preferred stock in exchange therefor, also \$700.00 par value of stock in exchange for stock heretofore issued to qualify directors.

When a telephone utility has secured only verbal consent permitting the erection of its poles and wires over private rights of way, on disposing of its properties to another company, the commission suggests that the purchaser take immediate steps to secure written easements covering its rights of way.

When a new company takes over an operating system and is obliged to finance future additions and betterments through the issuance of preferred stock, the commission, when it authorizes an issuance of stock to be exchanged for the properties acquired, will not permit an issuance of preferred stock, equal in par value to the depreciated reproduction cost of the properties acquired.

*Albert A. Rosenshine*, for Applicants.

*GORDON*, Commissioner.

#### OPINION.

In this application New Freeport Telephone and Telegraph Company asks authority to sell its properties described in Exhibit "A," attached hereto, to Delta Telephone and Telegraph Company. The purchasing company joins in the application and asks authority to issue \$27,300.00 par value of its common stock and \$68,000.00 par value of its preferred stock in payment for the properties.

New Freeport Telephone and Telegraph Company was incorporated under the laws of the state of California on September 17, 1901. In 1902, it acquired the properties of Freeport Telephone and Telegraph Company, the latter company being the successor in interest of a corporation known as The Freeport Company, organized about the year 1884. The property of New Freeport Telephone and Telegraph Company at the present time consists of a main pole line along the general course of the Sacramento River from Sacramento to Rio Vista, together with branch lines necessary to serve approximately 400 subscribers in and about the towns of Courtland, Clarksburg, Freeport, Franklin, Vorden, Ryde, Isleton, Rio Vista and Walnut Grove. The company owns a two-story frame office building, stable buildings, well and pumping plant at Courtland and central office equipment at Isleton, Ryde and Walnut Grove.

New Freeport Telephone and Telegraph Company, as now organized, has an authorized capital stock issue of \$50,000.00, divided into 500 shares of the par value of \$100.00 per share. Two hundred and seventy-three (273) shares of said stock are now outstanding, having been issued as follows:

Issued for property of Freeport Telephone Company (1902)-----	\$13,600 00
Sold for 50 per cent of par (June 1, 1903)-----	13,600 00
Sold at par (April 6, 1905)-----	100 00
Total -----	\$27,300 00

Practically all of the stock is owned by subscribers to the telephone system.

The company has collected one stock assessment of \$1,360.00 and has declared dividends as follows:

Date	Amount per share	Number of shares	Total
June 6, 1907.....	\$5 00	273	\$1,365 00
December 1, 1910.....	10 00	273	2,730 00
April 6, 1916.....	5 00	273	1,365 00

The company has issued no bonds and has no note indebtedness. Its balance sheet, as reported to the commission on August 31, 1917, shows the following:

<i>Assets.</i>		
Fixed capital.....		\$85,540 74
Cash and deposit.....		4,411 48
Employer's working funds.....		200 00
Due from subscribers and agents.....		2,537 26
Miscellaneous accounts receivable.....		97 05
Materials and supplies.....		718 17
<b>Total</b> .....		<b>\$93,504 70</b>

<i>Liabilities.</i>		
Capital stock .....		\$27,300 00
Reserve for accrued depreciation.....		9,006 29
Taxes accrued and not due.....		169 74
Appreciated fixed capital.....		15,162 70
Subscriber's deposits .....		245 50
Subscriber's advance payments.....		180 22
Other current liabilities .....		77 97
Corporate surplus .....		41,362 28
<b>Total</b> .....		<b>\$93,504 70</b>

The following is a consolidated income account as reported to the commission for the years ending December 31, 1914-16, inclusive:

	1914	1915	1916
Operating revenue .....	\$19,168 22	\$22,778 32	\$25,200 39
Operating expenses .....	12,871 49	15,970 24	16,575 83
<b>Net operating revenue</b> .....	<b>\$6,296 73</b>	<b>\$6,808 08</b>	<b>\$8,624 56</b>
Uncollectible revenues .....	39 13	118 60	82 51
Taxes .....	903 83	913 68	1,064 16
<b>Operating income</b> .....	<b>\$5,353 77</b>	<b>\$5,775 80</b>	<b>\$7,477 89</b>
Nonoperating revenue .....	30 31	12 09	136 29
<b>Gross income</b> .....	<b>\$5,384 08</b>	<b>\$5,787 89</b>	<b>\$7,614 18</b>
Deductions—			
Rent .....	\$110 00	\$120 00	\$120 00
Interest .....	161 34		
Miscellaneous .....	4 00		
<b>Totals</b> .....	<b>\$275 34</b>	<b>\$120 00</b>	<b>\$120 00</b>
<b>Net income</b> .....	<b>\$5,108 74</b>	<b>\$5,667 89</b>	<b>\$7,494 18</b>

From its inception this company has been operated as a community enterprise and many of its officers have served without pay. It is

alleged that except for the payment of three dividends, aggregating \$5,460.00, all of the surplus earnings have been invested in extensions and used for improvements. In 1916 the company began paying its president a salary of \$20.00 per month and its secretary and general manager \$30.00 per month. The only other salaried officer is the auditor, who is paid \$100.00 a month and who furnishes his own office and clerical force.

New Freeport Telephone and Telegraph Company states that it is unable to furnish data as to the original cost of its properties, its books having been destroyed by fire in 1911. It has submitted, however, a valuation made by Mr. A. R. Kelley. His valuation as of August 1, 1914, shows a reproduction cost new amounting to \$69,170.00. The appraisal has been checked by Mr. T. R. Gray, assistant telephone engineer of the commission, who reports that the \$69,170.00 should be increased by the sum of \$5,632.00 because of an error in computing the cost of exchange pole lines.

New Freeport Telephone and Telegraph Company reports that since the date of the appraisal of its properties and up to August 31, 1917, it has expended for additions and betterments the sum of \$16,370.74, making a total reproduction cost new as of August 31, 1917, according to the above figures, of \$85,540.74. Mr. Kelley's appraisal does not show the reproduction cost new less the depreciation. Part of the plant he estimates to be in a 75 per cent and part in a 100 per cent condition.

Mr. T. R. Gray finds the reproduction cost new of the properties, as of August 1, 1914, to be \$70,010.46, and the reproduction cost new less depreciation \$60,958.09.

At the hearing it developed that the pole lines of New Freeport Telephone and Telegraph Company, with the exception of approximately twelve miles, are located upon private property. In many cases the company has no written easements, the right to pass over the property being subject to verbal understanding with the property owners. The officials of the company state that no trouble has been experienced or is anticipated in the construction and operation of its telephone lines in this manner, and in fact claim a value of approximately \$20,000.00 for these easements, stating, however, that they are unable to substantiate this claim because of the destruction of the company's records by fire. It appears from the evidence that the cost of easements recently acquired has been included in the company's statement of capital expenditures to August 31, 1917. I am of the opinion that the New Freeport Company or its successor should undertake at once to enter into written agreements covering all of its rights of way over private property.

Delta Telephone and Telegraph Company was incorporated under the laws of the state of California on April 30, 1917, with an authorized capital stock issue of \$350,000.00, divided into 1,500 shares of 6 per cent cumulative preferred stock and 2,000 shares of common stock, each of the par value of \$100.00. The preferred stock is convertible into common stock at par by mutual consent of the holders thereof and the board of directors. The board of directors may also call the preferred stock at 102 and accrued dividends. That portion of the articles of incorporation relative to dividends on common and preferred stock reads in part as follows:

“At any time whenever all the accrued installments of dividends upon the preferred stock shall have been declared, and the corporation shall have paid the same, or set aside from its surplus or net profits a sum sufficient for the payment thereof, the board of directors may declare dividends on the common stock payable then or thereafter out of any remaining surplus profits to the amount of seven (7) per cent for the years in which said dividends are declared.

Whenever all of said dividends on the preferred stock and said seven (7) per cent dividend on the common stock shall have been declared and paid, the board of directors may likewise out of any remaining surplus profits, declare an additional dividend or dividends upon the preferred and or common stock in such amount of any remaining surplus or net profits of the corporation as said directors shall deem advisable and expedient.”

As said, Delta Telephone and Telegraph Company asks authority to issue in exchange for the properties of New Freeport Telephone and Telegraph Company \$95,300.00 of its capital stock, divided into \$68,000.00 of 6 per cent preferred and \$27,300.00 of common. The preferred stock is to be issued against what is termed the “structural value” of the properties, the common against what is termed the “intangible values.” Neither the petition nor the testimony clearly shows what is included under the term “structural value.” The \$68,000.00 is arrived at by depreciating A. R. Kelley’s reproduction cost new, as of August 1, 1914, by about 25 per cent and adding thereto the net cost of additions and betterments to August 31, 1917, allowance having been made for depreciation to the latter date. The \$27,300.00, the testimony shows, is more or less an arbitrary figure. It is said to cover intangible assets of the company, for which there is no record as to a large part of them, and in addition, working capital such as cash on hand, accounts receivable and other miscellaneous assets. I do not believe it is necessary for the commission in this proceeding to distinguish between the so-called structural and intangible values of this property.

The testimony shows that the stock issued by Delta Telephone and Telegraph Company in payment for the property will be distributed by the New Freeport Telephone and Telegraph Company to its stockholders and that corporation dissolved. This being the case the stockholders, after the transfer of the properties, will own the same proportionate interest in the properties as prior to their transfer, though such interest may be represented by an increase in the number of shares of stock owned.

This brings me to the consideration of another question. The testimony shows that one of the principal reasons for transferring the properties to a new corporation is the need of financing additions and betterments through the issue of stock rather than through earnings. It appears to me that this financing will have to be done to a large extent through the issue of preferred rather than common stock, and therefore, I do not believe that the new company should begin operation by having outstanding an issue of preferred stock equal in par value to the reproduction cost new less depreciation. I am of the opinion that the Delta Telephone and Telegraph Company should be permitted to issue in exchange for all the properties of the New Freeport Telephone and Telegraph Company \$40,950.00 of common and \$40,000.00 of its preferred stock.

In addition, I believe that the company should be permitted to issue \$700.00 par value of common stock in lieu of a like amount of stock heretofore issued to qualify directors.

The Delta Telephone and Telegraph Company states that its request to issue stock is made contingent upon its being allowed to issue and sell at a later date, upon supplemental application, such an amount of preferred stock as will at par represent the difference between the structural value of its properties and the reproduction cost new, the proceeds to be used for reconstruction purposes. I do not believe that the commission in this proceeding should pass upon this contingent request, nor should the authority herein granted to issue stock be interpreted in any way as approving the intention of the company to hereafter issue stock for reconstruction purposes.

The New Freeport Telephone and Telegraph Company reports that it desires to sell its properties to the Delta Telephone and Telegraph Company for the reason that the value of its properties is largely in excess of its authorized capital stock, that its articles of incorporation have been outgrown and are no longer suited for its needs, that the name, "New Freeport Telephone and Telegraph Company," is objectionable and confusing, that the par value of stock outstanding is greatly disproportionate to the investment of the stockholders and that additions and betterments to the properties should be financed through the issue of stock rather than by the investment of earnings.

I herewith submit the following form of order:

**ORDER.**

New Freeport Telephone and Telegraph Company having applied to the Railroad Commission for authority to sell, and Delta Telephone and Telegraph Company for authority to purchase, the properties described in Exhibit "A," attached hereto, and Delta Telephone and Telegraph Company having applied to the Railroad Commission for authority to issue capital stock in amounts as indicated in the foregoing opinion, and a public hearing having been held, and it appearing to the Railroad Commission that the money, property or labor to be procured or paid for by the issue herein authorized is reasonably required for the purposes specified in the order, which purposes are not reasonably chargeable in whole or in part to operating expenses or to income,

*It is hereby ordered* that New Freeport Telephone and Telegraph Company be and it is hereby authorized to sell, and Delta Telephone and Telegraph Company be and it is hereby authorized to purchase, the properties of New Freeport Telephone and Telegraph Company as the same existed on August 31, 1917, said properties being more fully described in Exhibit "A," attached to this decision.

*It is hereby further ordered* that Delta Telephone and Telegraph Company be and it is hereby authorized to issue \$40,950.00 par value of its common stock, and \$40,000.00 par value of its preferred stock to New Freeport Telephone and Telegraph Company in payment for the properties herein authorized to be transferred, and New Freeport Telephone and Telegraph Company is hereby authorized to acquire and hold said stock.

*It is hereby further ordered* that Delta Telephone and Telegraph Company be and it is hereby authorized to issue seven (7) shares of its common stock of the par value of \$100.00 per share to the following directors: One share to each director in lieu of a like amount of stock heretofore issued without authority from this commission:

H. W. Glensor,  
A. J. Miller,  
E. V. Kenney,

H. J. Edwards,  
Scott Hendricks,  
W. E. Hills,

A. D. Downing.

This authority is granted upon the following conditions and not otherwise:

1. The properties of New Freeport Telephone and Telegraph Company shall be transferred to Delta Telephone and Telegraph Company free from encumbrance, except current indebtedness as of August 31, 1917.

2. Before transferring any of its properties, New Freeport Telephone and Telegraph Company shall secure the consent of its stockholders in the manner prescribed by law.

3. Within thirty days after the transfer of the properties herein authorized, New Freeport Telephone and Telegraph Company shall report the fact of such transfer to this commission and shall file a certified copy of the deed of conveyance.

4. Delta Telephone and Telegraph Company shall keep separate, true and accurate accounts showing the receipt and application in detail of the proceeds of the sale of the stock herein authorized to be issued; and on or before the twenty-fifth day of each month the company shall make verified reports to the Railroad Commission stating the sale or sales of said stock during the preceding month, the terms and conditions of the sale, the moneys realized therefrom, and the use and application of such moneys, all in accordance with this commission's General Order No. 24, which order, in so far as applicable, is made a part of this order.

5. The authority herein given Delta Telephone and Telegraph Company to purchase properties and to issue stock shall apply only to such properties as shall have been purchased and such stock as shall have been issued on or before April 30, 1918.

6. The price at which Delta Telephone and Telegraph Company is herein authorized to purchase the properties described in Exhibit "A" attached hereto, shall not be urged before this commission, or any other public body, as a measure of value of said properties for rate fixing or any other purpose.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the state of California.

Dated at San Francisco, California, this thirteenth day of December, 1917.

#### EXHIBIT "A"

In Exhibit "E" attached to the application, the property which New Freeport Telephone and Telegraph Company desires to sell and transfer to the Delta Telephone and Telegraph Company, and which it is authorized to sell and transfer by the foregoing order, is described as follows:

"The Telephone and Telegraph system of the party of the first part, consisting of wires, poles, insulators, crossarms, braces, bolts, screws, nails, telephone and telegraph instruments, switch-boards, cables, conduits and all and singular the appliances, appurtenances, fixtures and apparatus thereunto in any way appertaining situated in Sacramento County and Counties adjacent, California, or elsewhere.

"Also all improvements, plants, machinery, tools, appliances, including therewith all materials and supplies of every kind and nature belonging to said party of the first part wheresoever situated and used or not used in connection therewith or in the conduct of the business of said party of the first part.

"Also all those certain lots, pieces, and parcels of land situate, lying and being in the County of Sacramento, State of California, and bounded and particularly described as follows, to-wit :

*Parcel No. 1.* Situate in the Town of Courtland and being the East Thirty (30) feet of Lot No. One (1) and all of Lot No. Two (2) in Block Two (2) of the said Town of Courtland, per map thereof filed in the office of the County Recorder of the County of Sacramento, State of California.

*Parcel No. 2.* Beginning at a point located North 6 degrees 30 minutes West 572 feet, thence North 33 degrees 42 minutes East 60 feet, from an Iron Pipe monument in the North line of Swamp Land Survey No. 253, said Iron Pipe monument being distant Easterly 590.8 feet measured along said North line of Swamp Land Survey No. 253, from its intersection with the Southeasterly bank of the Sacramento River, said Iron Pipe monument being designated and described on that certain plat of the town of Courtland, recorded August 25th., 1905, in Map Book No. 6, page 22, Records of Sacramento County, and running thence from said point of beginning North 33 degrees 52 minutes East 140 feet to a stake, thence North 58 degrees 33 minutes West 70 feet to a stake, thence continuing the same course 15 feet further a distance of 85 feet in all, to a point, thence South 33 degrees 52 minutes West 140 feet to a point, thence South 58 degrees 33 minutes East 10 feet to a stake, thence continuing the same course 75 feet further a distance of 85 feet in all, to the point of beginning.

*Parcel No. 3.* Being the North one-half ( $\frac{1}{2}$ ) of Lot No. Ten (10) in Block No. Two (2) of said Town of Courtland, as delineated on a map thereof made by H. E. Crew, Surveyor, July 26, 1905, and filed in the office of the County Recorder of the said County of Sacramento at his request, on the 25th. day of August, 1905.

The parties of the first part hereby reserve a right of way over and across the entire South ten (10) feet and the entire East Ten (10) feet of said North one-half ( $\frac{1}{2}$ ) of said Lot Ten (10) for a perpetual right of way for wagons and vehicles of all sorts and for footmen, the same to be at all times an open and unobstructed right of way for ingress and egress.

*Parcel No. 4.* A strip of land 30 feet wide adjacent to and on the Westerly side of the North one-half of Lot Ten (10) in Block Two (2) of the Town of Courtland as delineated on the map thereof made by H. E. Crew, Surveyor, July 26th., 1905, and filed in the office of the County Recorder of the said County of Sacramento at his request on the 25th. day of August, 1905, reserving to the parties of the first part a right of way 10 feet wide over the South 10 feet of said tract hereinabove described for a perpetual right of way for wagons and vehicles of all sorts and for footmen, the same to be at all times an open and unobstructed right of way for ingress and egress.

"Also all the good-will, trade rights, trade marks, brands, patents, licenses, and trade names now owned or controlled by the said party of the first part, also all manufactured products, goods, crude materials and supplies of every kind and where-soever situated belonging to said party of the first part, and all of its other assets of every kind including money on hand and such bills and accounts receivable and other liquidated rights to money as may be due said party of the first part or which may hereafter fall due. Also all contracts and chooses in action, of whatever nature and description.

"All and singular, the rights, privileges and franchises, heretofore acquired or now being acquired, whether through direct purchase or otherwise, from the State of California, or from said counties or any municipal corporation situated therein, by or under the authority and laws of said state, or counties, or the United States, and now possessed, enjoyed and exercised by the said party of the first part, in conducting its business of furnishing telephone and telegraph service or other lawful purposes, and also all and singular, the easements, rights of way, and servitudes which the said party of the first part, now own, whether same affects land held in private ownership or lands owned or controlled by the said counties, and or municipal corporations, for use as highways, streets, alleys or other purposes.

"All other property, real and or personal, of every kind and nature whatsoever, and wheresoever the same may be situated.

"*Together*, with all and singular, the tenements, hereditaments and appurtenances unto each and all of the said property belonging or in anywise appertaining, and the reversion and reversions, remainder and remainders, revenues, rents, issues, income, earnings, and profits thereof."



## DECISION No. 4963.

IN THE MATTER OF THE APPLICATION OF SOUTHERN COUNTIES GAS COMPANY OF CALIFORNIA FOR AN ORDER AUTHORIZING THE ISSUANCE OF DEBENTURES AND THE EXECUTION OF AN AGREEMENT SECURING THE SAME.

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Application No. 3340.

*Decided December 14, 1917.*

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BY THE COMMISSION.

**FIRST SUPPLEMENTAL ORDER.**

Good cause appearing,

*It is hereby ordered* that the order in Decision No. 4918, dated December 4, 1917, be and the same is hereby amended so as to permit Southern Counties Gas Company of California to issue \$400,000.00 face value of two-year 6 per cent notes at not less than 92 per cent of their face value, plus accrued interest, in lieu of but not in addition to the \$400,000.00 of ten-year 6 per cent debentures.

*It is hereby further ordered* that the order in Decision No. 4918, dated December 4, 1917, shall remain in full force and effect except as modified by this first supplemental order.

Dated at San Francisco, California, this fourteenth day of December, 1917.

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DECISION No. 4964.

IN THE MATTER OF THE APPLICATION OF IMPERIAL UTILITIES CORPORATION FOR AN ORDER AUTHORIZING THE SALE OF ONE HUNDRED SHARES OF ITS CAPITAL STOCK TO THE ORIGINAL SUBSCRIBERS THEREOF UNDER ITS ARTICLES OF INCORPORATION, AND THE USE OF THE PROCEEDS THEREOF FOR LAWFUL AND PROPER CORPORATE PURPOSES.

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Application No. 3079.

*Decided December 14, 1917.*

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Applicant authorized to issue \$10,000.00 par value of its common capital stock, to be sold at not less than par, the proceeds thereof to be used to discharge indebtedness incurred through money advanced by its stockholders and used for proper capital purposes.

*Charles F. Potter*, for Applicant.

BY THE COMMISSION.

**OPINION.**

In this application Imperial Utilities Corporation asks authority to issue \$10,000.00 par value of its common capital stock at not less than par, and use the proceeds for the purposes hereinafter indicated.

Public hearings were held on August 15 and October 4 before Examiner Westover. On November 21 applicant filed with the commission certain data called for at the hearings, and the matter is now ready for decision.

Imperial Utilities Corporation was organized on or about April 10, 1917, with an authorized capital stock of \$100,000.00, divided into 1,000 shares of the par value of \$100.00 per share.

The incorporators have subscribed for stock as follows:

Name of incorporator	Number of shares subscribed	Amount
Charles G. Patrick.....	20	\$2,000 00
Thomas B. Rickey.....	20	2,000 00
F. M. Ish.....	20	2,000 00
Loren B. Curtis.....	20	2,000 00
Milo A. Smith.....	20	2,000 00

Applicant contemplates the purchase of public utility properties and plants located in southern California. In Application No. 3106, it asks authority to acquire the Niland and Calipatria water works and plants. The purchase of these plants and the issue of \$9,000.00 of bonds for that purpose will be considered by the commission in its decision relative thereto.

In Exhibit "B," attached to the application herein, applicant reports expenses incurred or to be incurred by Imperial Utilities Corporation as follows:

Organization fees and expenses.....	\$111 65
Engineering fees, surveying, preparation and examination of reports, expenses .....	1,150 00
Trustees' fees and expenses incidental to mortgage and bond issue..	300 00
Legal expenses .....	533 20
Recording and filing fees and expenses.....	21 73
Cost of improvements to Calipatria Water Works.....	1,513 18
Cost of improvements to Niland Water Works.....	7,988 20
<b>Total .....</b>	<b>\$11,617 96</b>

The above items of legal engineering and trustee's fees and expenses will be considered when the question of a further stock issue to cover additional advances is presented. Portions of these items should be distributed to other properties when acquired. The entire amounts do not appear to be properly chargeable to these two plants.

The testimony shows that all of the proposed improvements have been installed. At Calipatria the company has installed 2,750 feet of 2-inch standard service main and constructed an addition to its pumping plant. At Niland a 4,500,000 gallon settling basin has been constructed and 7,500 feet of 8-inch double riveted 16-gauge steel pipe installed.

The engineering department of the commission reports that the cost of making these improvements as reported by applicant, is reasonable.

The funds necessary to pay for the improvements, the sundry organization and preliminary expenses have been advanced by the incorporators. Each of the five incorporators has advanced to applicant \$2,000.00 for this purpose. In addition, Charles G. Patrick, according to applicant's report, has advanced the sum of \$1,837.09. Inasmuch as the improvements, etc., have been paid for, we believe that the proceeds from the sale of the stock should be used to pay the indebtedness represented by the advances by the incorporators.

#### ORDER.

Imperial Utilities Corporation having applied to the Railroad Commission for authority to issue \$10,000.00 par value of stock, and a public hearing having been held; and the Railroad Commission being of the opinion that the money, property or labor to be procured or paid for by the issue of \$10,000.00 par value of stock is reasonably required for the purpose or purposes specified in the order, and that the expenditures for said purpose or purposes are not in whole or in part reasonably chargeable to operating expenses, or to income,

*It is hereby ordered* that Imperial Utilities Corporation be and it is hereby granted authority to issue, at not less than the par value thereof, \$10,000.00 of its common capital stock, upon the following conditions and not otherwise:

1. The proceeds obtained from the sale of the stock shall be used to pay the following indebtedness:

Charles G. Patrick .....	\$2,000 00
T. B. Rickey .....	2,000 00
L. B. Curtis .....	2,000 00
Milo A. Smith .....	2,000 00
F. M. Ish .....	2,000 00

2. Imperial Utilities Corporation shall keep a true and accurate record of the issue of the stock herein authorized, and shall on or before the twenty-fifth day of the month following the issue of any of said stock make a verified report to the Railroad Commission, setting forth the fact and date of issue, the par value of the stock so issued, the amount received therefor, and the disposition of the proceeds thereof, all in accordance with the Railroad Commission's General Order No. 24, which order, in so far as applicable, is made a part of this order.

3. The authority herein granted to issue stock shall apply only to such stock as may be issued on or before April 1, 1918.

Dated at San Francisco, California, this fourteenth day of December, 1917.

Decision No. 4965, grade crossing; not printed. See end of volume.

DECISION No. 4966.

IN THE MATTER OF THE APPLICATION OF H. A. FOLK FOR CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY TO OPERATE STAGE OR TRUCK SERVICE BETWEEN SAN JOSE AND SARATOGA.

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Application No. 3371.

*Decided December 17, 1917.*

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BY THE COMMISSION.

**ORDER OF DISMISSAL.**

Applicant in the above-entitled proceeding having made written request that the above application be dismissed,

*It is hereby ordered* that said proceeding be and the same is hereby dismissed without prejudice.

Dated at San Francisco, California, this seventeenth day of December, 1917.

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DECISION No. 4967.

TUOLUMNE COUNTY

*vs.*

SIERRA AND SAN FRANCISCO POWER COMPANY.

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Case No. 1161.

*Decided December 17, 1917.*

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BY THE COMMISSION.

**ORDER OF DISMISSAL.**

Complainant having made written request that the action in the above-entitled matter be dismissed,

*It is hereby ordered* by the Railroad Commission of the state of California that the above-entitled matter be and the same is hereby dismissed without prejudice.

Dated at San Francisco, California, this seventeenth day of December, 1917.

## DECISION No. 4968.

IN THE MATTER OF THE APPLICATION OF THE SOUTHERN PACIFIC COMPANY TO INCREASE CLASS AND COMMODITY RATES VIA STEAMER LINES BETWEEN SAN FRANCISCO AND SACRAMENTO RIVER POINTS.

Application No. 2924.

*Decided December 17, 1917.*

- A petition for authorization to increase class and commodity rates approximately 15 per cent on river boat lines operated by applicant between San Francisco and Sacramento River points.
1. A common carrier operating river steamers for the transportation of both freight and passengers should so apportion its rates that each branch will contribute its share of the cost of operation. If increased revenues are necessary, the burden should not be borne entirely by the freight traffic.
  2. Though applicant is admitted to be one of the most prosperous transportation companies in the country, such fact does not warrant it in rendering any service at rates below actual cost, for such loss must of necessity be made good by imposing unduly high rates on other traffic.
  3. A common carrier which gives a reliable, expedited service to producers along river points, moving their produce in a regular and speedy manner to canneries and markets, should receive, when entitled to, increases in its rates, which farmers should prefer to pay in lieu of a radical reduction in operating schedules.
- Suggestion made that carriers operating river transportation systems cooperate more fully with a view to eliminating, as much as possible, duplications in service.
- Increases in class and commodity rates authorized, provided that no water rates shall be advanced in excess of present rail rates.

*Sanborn & Roehl*, for Southern Pacific Company.

*Seth Mann*, for San Francisco Chamber of Commerce.

*G. J. Bradley*, for Merchants and Manufacturers Association of Sacramento.

*H. M. Wade*, for Oakland Chamber of Commerce and certain San Francisco shippers.

*H. W. Adams*, for California Fruit Distributors of Sacramento.

BY THE COMMISSION.

## OPINION.

This proceeding is upon application of the Southern Pacific Company, filed May 17, 1917, under section 63 of the Public Utilities Act, for an order permitting an increase of approximately 15 per cent in all freight rates via river boats between San Francisco and Sacramento and at intermediate points, also via the ferry boats on what is known

as the Creek Route, between San Francisco (Market street) and Oakland (Broadway Wharf) carried in the following tariffs:

Proportional Freight Tariff .....	No. 41	C. R. C. No. 2024
Local Freight Tariff .....	No. 292-G,	C. R. C. No. 1630
Local Freight Tariff .....	No. 380-D,	C. R. C. No. 813
Local Freight Tariff .....	No. 383-B,	C. R. C. No. 58
Local Freight Tariff .....	No. 541-A,	C. R. C. No. 1916
Joint Freight Tariff .....	No. 565-A,	C. R. C. No. 1280
Joint Freight Tariff .....	No. 765	C. R. C. No. 1669
Proportional Freight Tariff .....	No. 798-C,	C. R. C. No. 2045
Joint and Proportional Freight Tariff .....	No. 893	C. R. C. No. 2070

The application also seeks authority to cancel rates on commodities in lots of less than 20,000 pounds carried on pages 34, 35, and 36, Items 520 to 595, inclusive of, Local Freight Tariff No. 541-A, C. R. C. 1916.

It is alleged that, due to the greatly increased cost of operation, existing rates are inadequate and the revenue derived is insufficient to pay even operating expenses.

No testimony was introduced in connection with Local Freight Tariff No. 380-D, C. R. C. 816, covering the ferryboat freight rates between San Francisco and Oakland (Broadway Wharf), and this part of the application will be dismissed without further comment.

Applicant took over the steamers of the California Steam Navigation Company in 1869 and has since operated vessels regularly between San Francisco and Sacramento; it also renders a special service in the delta country, working the slough landings during the harvest season. The distance between San Francisco and Sacramento via the river route is 125 miles. There are five vessels in the service, the Apache, Modoc, Navajo, Cherokee and Fruto. The Navajo is operated for the special accommodation of passengers between San Francisco and Sacramento. It leaves San Francisco at 8.30 a.m. daily, except Sunday, arriving at Sacramento at 7 p.m. and leaves Sacramento at 9 p.m. daily, except Monday, arriving at San Francisco at 7 a.m. Stops are made at the principal way stations on the northbound trip, while no stops at all are made on the southbound trip. Freight is accepted on the Navajo, but because of the time schedule it is offered in such small quantities that its movement on this vessel is apparently of but little importance either to applicant or to the shipping public.

The Apache and Modoc alternately operate daily, except Sunday, leaving San Francisco at 12 noon and Sacramento at 10 a.m. These boats handle passengers and freight and are scheduled to reach the different terminals early in the morning, in order to accommodate the produce market trade.

The steamers Cherokee and Fruto are relief boats and are used in regular service only during the peak season of the year, in the months

of May, June, July and August, when crops are moving in heavy volume.

The steamers Apache and Modoc were built in 1880 at an estimated cost of \$80,000.00 each. During the past ten years, 1906 to 1916, inclusive, the repairs to these steamers have been fairly constant, the Apache being charged with \$62,675.55 for ordinary work and \$78,737.17 for unusual items; the Modoc, \$64,434.29 for ordinary and \$78,343.64 for unusual items. The steamer Navajo, built in 1909, cost \$89,552.68 and the repairs, from the time of entering service until the end of 1916, seven years, amounted to \$41,257.28 for ordinary and \$11,081.45 for unusual repairs. Another steamer, named the Seminole, costing \$110,454.42, operated in conjunction with the Navajo, was placed in service in June, 1911, and sunk in a collision during February, 1913. The boat carried no insurance in outside companies but was included under the company's plan of setting aside a premium of twenty cents per hundred valuation per annum.

Three other boat lines, the California Transportation Company, Sacramento Transportation Company and Farmers' Transportation Company, independently owned and in competition with this applicant, ply on the river between San Francisco and Sacramento and, in addition, the landings are served by a great number of irregular craft. The California Transportation Company furnishes passenger and freight service of the same high standard as applicant at practically the same rates, while the Sacramento Transportation Company and the Farmers' Transportation Company give freight service on a slow schedule but at lower rates. The public, therefore, has the benefit of substantial competition in both the service and the rates.

It might be stated at this point that on March 15, 1917, under our Decision No. 4182, in Application No. 2778, the Sacramento Transportation Company and the Farmers' Transportation Company were authorized to enter into an agreement whereby the activities of these companies between San Francisco and Sacramento were turned over to the San Francisco and Sacramento Navigation Company, an operating organization. Under the agreement the two companies pooled their vessels by lease, as far as the San Francisco-Sacramento business is concerned, each company retaining the earnings of its vessels and assuming the operating expenses, both companies charging the schedule of rates in effect via the Farmers' Transportation Company, which were lower than those in effect via the Sacramento Transportation Company. This consolidation, as to the traffic between San Francisco and Sacramento only, was brought about in an effort to reduce expenses by cutting out duplicate service but without curtailing any privilege of the shipping public. The reduction in expenses, however, was not sufficient to meet

the situation and these companies are now before us in separate cases seeking further relief.

The financial condition of the Southern Pacific Company's river boat operations was considered in Decision No. 1778 of September 4, 1914, Application No. 833, Opinions and Orders of the Railroad Commission of California, Vol. 5, pages 360-367. The data considered in that case showed the operating revenue for the year 1913 to be \$425,028.18 and the operating expenses and taxes as \$525,936.06, a deficit of \$100,907.88. The relief prayed for, viz, the cancellation of the 5,000 and 10,000-pound commodity rates was authorized by formal order and changes in certain class rates to Vallejo, Benicia and adjacent points, were later authorized by informal action. However, because of failure of agreement among the steamer lines as to date of cancellation, advantage was not taken of the authority given, and we are called upon to decide the question a second time.

When the opinion and order in Application No. 833 were written, in September, 1914, the commission was satisfied that the *ten-lot* commodity rates were unremunerative and should be eliminated from the tariffs. Conditions have not improved during the past three years, but, instead, as shown by the evidence and exhibits now before us, have grown worse, due to the increased cost of maintenance and operation. We, therefore, see no reason for changing our former opinion, and this application to cancel the specified ton commodity rates will be granted.

The applicant has furnished information as to its property investment, volume of traffic, revenue and expenses. Exhibit No. 7, set forth below, shows the operating revenue and expenses of the steamer Navajo for the year ending December 31, 1916:

Freight revenue (northbound).....	\$3,455 31
Freight revenue (southbound).....	15,493 27
Total .....	\$18,948 58
Passenger revenue (northbound).....	\$17,785 12
Passenger revenue (southbound).....	21,006 23
Total .....	\$38,791 35
Other revenue .....	\$4,808 12
Total operating revenues.....	\$62,548 06
Operating expenses (directly incurred by steamer Navajo).....	\$80,035 71
Proportion of all other expenses chargeable against river steamers apportioned to steamer Navajo.....	2,019 78
Total operating expenses.....	\$82,055 49
Net loss from operation.....	*\$19,507 44

\*Deficit.



Exhibit No. 8 gives the operating revenue and expenses of the steamers Cherokee and Fruto for the months of May, June, July and August, 1916, viz:

Operating revenue:	Steamer	
	Cherokee	Fruto
May -----	\$988 79	-----
June -----	469 18	-----
July -----	5,107 34	4,022 03
August -----	272 96	-----
Total -----	\$6,838 27	\$4,022 03

  

Operating expenses:	Steamer	
	Cherokee	Fruto
May -----	\$1,512 46	\$116 77
June -----	1,783 88	417 01
July -----	4,193 59	3,945 79
August -----	542 03	1,522 79
Total -----	\$8,031 96	\$6,002 36
Net operating loss -----	*\$1,193 69	*\$1,080 33

Steamer Navajo for the twelve months of the calendar year 1916 secured a total revenue of \$62,548.05 at an operating expense of \$82,055.09 and a net loss of \$19,507.44, while the extra fruit boats, Cherokee and Fruto, lost respectively \$1,193.69 and \$1,980.33 during the four months they were used in the year 1916. Operating expenses embrace only such amounts as actually belong to these boats and no charge has been included for overhead expenses. The grand total of all operations for the calendar year of 1916, as per corrected exhibit No. 2, shows a loss of \$82,473.31, which indicates that the steamers Apache and Modoc, jointly, lost \$59,791.85.

This exhibit also gives the operating revenue and operating expenses by months and shows an operating loss during every month of the year; the greatest deficit was in March, when the revenues totaled \$14,132.31, expenses \$27,099.25, operating loss \$12,966.94, a ratio of expenses to revenue of 191.8 per cent. The smallest loss occurred in August, with total revenues of \$27,152.77, expenses \$29,257.80, operating loss of \$2,105.03, a ratio of operating expenses to revenues of 107.63 per cent.

Taking the fiscal periods, ending June 30, for the four years involved in this application and in Application No. 833, we find a total loss of \$288,530.62, divided as follows:

1913 (Application 833) -----	\$100,907 88
1914 (Trans. page 471) -----	91,000 00
1915 (Exhibit No. 1) -----	70,920 32
1916 (Exhibit No. 1) -----	25,702 42

\*Deficit.

In the year 1915 there was expended \$39,282.00 for a general overhauling of the steamer Apache. Excluding this extraordinary expenditure the net results in 1915 and 1916 would have been \$31,638.32 and \$25,702.42. A witness testified that during these two periods passenger earnings were much above normal by reason of the Panama-Pacific Exposition traffic. If these unusual earnings were, for comparison purposes, eliminated, the results would show but slight variations over the four years' period; in other words, without the Exposition traffic the loss would have totaled approximately \$400,000.00 instead of only \$288,530.62.

The operating loss for the first five months of the current year was as follows:

January -----	\$6,587 42
February -----	6,932 14
March -----	10,338 77
April -----	7,319 03
May -----	20,779 74
<hr/>	
Total -----	\$51,958 00

This amount includes the cost of a general overhauling given the steamer Modoc, amounting to \$37,195.12, charged in the months of March, April and May, which, in our opinion, should be spread over an average period of time. Even if this amount be deducted in its entirety there would still be an operating loss for the five months' period of \$14,762.88.

Commencing in June, 1916, a general strike of river boat employees materially interfered with applicant's revenue by forcing a partial cessation of operations, but it is to be noted that for the first five months of 1917 as compared with the same period of 1916 there is a decrease of \$7,521.47 in the passenger earnings, an increase of \$38,975.02 in freight earnings, the total of all operating revenue increased from \$82,465.83 to \$113,725.70, or \$31,259.87; total operating expenses increased from \$122,156.07 to \$165,683.70, or \$43,527.63, an operating loss for the five months of 1917 of \$51,958.00.

It is estimated the operating loss for 1917 will be in excess of \$100,000.00; this is based on an increase of 25 per cent in cost of labor and materials for repairs to vessels, 10 per cent increase in wages of men operating the vessels and 25 per cent increase in the cost of commissary for meals furnished the crews. These statements demonstrate that during the five years' period under discussion, after excluding the unusual passenger earnings secured during the Panama-Pacific Exposition, applicant's operating losses closely approach \$100,000.00 per annum.

The revenue is derived almost entirely from freight and passenger traffic, other income being so small as not to affect results. Exhibit No. 2 segregates operating expenses for the calendar year 1916 in conformity with rules of the Interstate Commerce Commission, the freight revenue being \$124,607.56, operating freight expenses \$185,873.59, operating freight loss \$61,266.03, a ratio of operating freight revenue to operating freight expense of 149 per cent, while the passenger revenue, including baggage, mail, express and other passenger earnings, was \$83,533.61, operating expenses \$105,149.21, operating loss \$21,615.60, a ratio of operating passenger revenue to operating passenger expenses of 126 per cent. Advances are limited to freight traffic, although the passenger revenue amounts to 40 per cent of the total operating revenue and while the adjustment proposed will, in part, equalize the losses sustained in the two branches of service, it is our opinion each branch should contribute its share of the cost of operations and applicant might well give careful consideration to the results of its passenger traffic in future adjustment of these boat line rates.

The total freight earnings for the fiscal years ending June 30, 1915 and 1916, were \$194,307.15 and \$147,545.44, while for the calendar year of 1917 based on the results for the first five months, the gross freight receipts will reach approximately \$200,000.00. The increases requested should bring to applicant about \$30,000.00 per annum, provided the change in rates does not result in a diversion of tonnage to competing lines. This adjustment will still leave an operating deficit approaching \$70,000.00 per year.

No individual shipper appeared in opposition to the proposed increases in rates, but commercial organizations of San Francisco, Oakland, Sacramento and Stockton, represented by attorneys, followed the proceedings closely without introducing any testimony or filing any exhibits. No positive opposition developed at any stage of the proceedings. Protestants generally admitted that the traffic was handled promptly and efficiently, except when there was a congestion of freight during the harvest seasons; that the service rendered was superior to that furnished by the rail carriers and that a continuation of this route was of the greatest importance to thousands of shippers.

The protestants' position is that in some cases there is a duplication of service between the competing companies during certain periods of the year which could be removed without injury to the public, thus reducing expenses and obviating the necessity of a radical change in rates. Particular reference is made to the steamer Navajo, devoted primarily to passenger service, but while this boat operates at a loss,

the loss is not nearly so large as that sustained by either the Apache or the Modoc, handling passengers, but relying mainly on freight tonnage for revenue. Again, attention is called to the fact that these river boats act as feeders for Southern Pacific Company's main line traffic and, although showing a deficit in their independent operations, are, nevertheless, a source of profit to the applicant.

It is admitted this applicant is one of the most prosperous transportation companies in the United States, but this fact does not permit the rendering of any service below cost, because the loss must be made good by imposing unnecessarily high rates on other traffic.

In early days there was competition between the water lines and the rail lines of a substantial nature, both as to rates and as to service. The rivers and bays, in many cases, practically parallel the rail lines and there are many interior points common to the rail and water lines. The rivalry manifested itself in many ways, especially in the lowering of rates which for a number of years have failed to produce sufficient revenue to cover operating costs to applicant and other carriers in the allied cases, and the situation is now acute by reason of the great increases in cost of operation.

Prior to the enactment of the Public Utilities Act the rates of regular lines had reached a stable basis and but few changes in rates have been made during the past decade; however, within this period of time competition in the way of small vessels operated with distillate fuel, and automobiles, both freight and passenger, running on highways along the river banks, has developed to a marked extent, especially during the peak seasons of the year. As a result of this competition the regular river boats at times operate with small cargoes, although operating expenses are almost as great as if they were fully loaded and this condition has in turn resulted in a higher cost per unit of freight.

Testimony was introduced describing the facilities offered at some 130 bank landings, stopping places where no wharves are provided, and the difficulties occasioned in the handling of this traffic. While these bank landings may not be treated as an independent service for which a separate and distinct charge should always be made, it is, nevertheless, apparent that their great number and the dangers and delays in making the stops hinder the operation of the boats and add materially to the cost of the service. However, applicant has to some extent, overcome the situation by establishing group rates for twelve miles and under, over twelve miles to and including twenty-five miles and made one blanket for all distances over twenty-five miles. We may thus assume that this theory of rate making is intended to

take care of the added expense at bank landing points by assessing uniform rates for distances over twenty-five miles.

Boats are seldom loaded to capacity, as evidenced by exhibit No. 6, which is a statement of tonnage handled by each steamer run between San Francisco and Sacramento from January 1, 1916, to May 31, 1917. The tonnage handled during the months of January, February and March is usually very light.

The following tabulation taken from the exhibit gives largest and smallest loading via each steamer on certain dates:

**Steamer Navajo.**

Largest tonnage				Smallest tonnage			
Date	North bound	South bound	Round trip	Date	North bound	South bound	Round trip
1916—Aug. 21-----	-----	131	136	1917—Jan. 22-----	3	1	4
1917—Feb. 12-----	17	-----	-----				

**Steamer Apache.**

1916—Dec. 16-----	172	-----	-----	1916—Jan. 1-----	-----	3	-----
Oct. 28-----	-----	398	473	1917—Jan. 2-----	7	-----	18

**Steamer Modoc.**

1916—Oct. 27-----	-----	340	430	1916—Jan. 27-----	31	-----	47
Nov. 7-----	170	-----	-----	Sept. 29-----	-----	5	-----

The steamers failed to carry, as the exhibit illustrates, anything resembling capacity loads except on one or two occasions.

With further reference to the volume of the service and the necessity for the scheduled boats we have the testimony of the assistant superintendent in charge of river steamers:

Q. From your knowledge of the operations of the river steamers, would you say there is too much service on the rivers so far as the Southern Pacific is concerned?

A. Absolutely no.

Q. Are your steamers crowded now?

A. Crowded now; we can not give the service, can not get in here or at the Sacramento terminal and give the service we should.

Q. What has been your experience since the shippers demanded this service with reference to meeting that market delivery, getting that steamer in at any reasonable time into San Francisco Sunday morning market?

A. We find we can not do it. There are so many landings to make, although our boats don't come in with full cargo, still we find we can not get them in here—at least, we have had under this

operation, at least—well, the earliest arrival, I think, is somewhere in the neighborhood of 9 o'clock in the morning and the latest 3.10 in the afternoon Sunday.

Q. And that is notwithstanding the fact that ordinarily there is not much produce comes down the river Saturday night?

A. Not as much as other days.

Q. Ordinarily, you should be in a position, should you not, to get into the market at 4 or 5 o'clock in the morning?

A. Yes, sir.

Q. Now, if that condition obtains with your company on Sunday, what would it be during the middle of the week if your company operated one day and the California Transportation Company the next?

A. There would be no service at all for the market—all be gone before the boats got here.

Q. Is it a fact that your company is now trying to get another steamer to put on to relieve these steamers so that the service can be improved?

A. Yes, sir.

Q. Are the commission merchants and farmers complaining about the service?

A. Yes.

Q. Which would indicate that there is not too much service but too little service in the river?

A. Too little, yes.

Q. To what do you attribute your trouble?

A. Nondelivery and markets.

Q. You are doing everything within your power to keep the service down to the bare necessities?

A. Absolutely.

Q. And save expenses?

A. Absolutely.

Q. And you have not been able to cut out any steamers; in fact, you are figuring on putting on another one?

A. Yes, sir.

Q. Then the merchants and farmers are complaining, are they, now about the service?

A. Yes, sir, they have asked for a little conference this afternoon to discuss that very question.

Q. So that the steamers may arrive in San Francisco earlier in the morning?

A. Yes, sir.

The difficulties touched on in this testimony are in connection with the summer season and it has been positively demonstrated that during this period of the year the efforts of the different scheduled boat lines have not resulted in a satisfactory service, notwithstanding the fact the boats seldom carry capacity loads.

The expedited movement of farm products from Sacramento river districts, its regular and speedy arrival at the packing houses, canneries and produce markets is a necessary part of the transportation

service and, without doubt, farmers would prefer slightly increased freight rates to any radical reduction in the operation of scheduled boats.

At times the boat of one carrier is taking on freight at a bank landing, while the boat of another carrier, in response to a flag signal, is backing water in the stream waiting to make a pickup at the same landing. In each case the stops might involve only a 50-cent shipment going to the same destination, both of which could have been moved via the one line except for the whim of the consignor.

It is suggested an effort be made to reduce the number of boat stops, either by consolidating landings which are closely adjacent, by dividing the landings between the carriers, or by one company working the east bank of the river, while the west bank is handled exclusively by the other. Since the San Francisco and Sacramento Navigation Company does but little intermediate business between San Francisco and Sacramento the division of territory would be an arrangement between the Southern Pacific Company and the California Transportation Company. During the slack seasons of the year the number of boats operated might be reduced without inconvenience to the shipping public.

In determining the reasonableness of rates applied to a given tonnage, the earnings and the cost of service via the route actually traversed are factors which must be considered and, in this situation, if shippers are to enjoy a continuation of scheduled boats throughout the entire year increases in rates can not be avoided.

Present rates of applicant between San Francisco and Crockett, Port Costa, South Vallejo and Benicia via steamer line are practically the same as those in effect via its all rail route to the same points and it is proposed to increase the steamer rates 15 per cent, which increase will also apply to all other class and commodity rates.

Class rates between San Francisco and Sacramento, present and proposed, are as follows:

	1	2	3	4	5	A	B	C	D	E
All rail—Southern Pacific Co. or Western Pacific Co. ....	24	21	18	16	13	13	12	10	9	7
Steamer—										
Present .....	22	20	17	15	12	12	11	8½	8	8
Proposed .....	25½	23	19½	17½	14	14	12½	10	9	9

Upon the facts as disclosed the contention of applicant that it does not, under the present rates, obtain sufficient revenue, has been fully substantiated. However, as heretofore stated, we are of the opinion

that a great saving in operating expenses could be secured by cooperation in the elimination of duplicate service during the winter months and a reduction in the number of bank landings. We do not believe, under the showing made, that applicant's boat line rates should be increased to a figure exceeding the rail rates at common points.

After a careful consideration of all the testimony and exhibits in this application and in the related cases which affect the total traffic on the Sacramento River, we are of the opinion that the present rates are unremunerative and that application should be granted, with the exception that no rates shall be advanced above the present rail rates.

#### ORDER.

The Southern Pacific Company having applied, under section 63 of the Public Utilities Act for authority to increase certain freight rates, as set forth in the opinion which precedes this order, a public hearing having been held, and the Railroad Commission being fully apprised in the premises, the Railroad Commission hereby finds as a fact that the existing freight rates of petitioner are unremunerative and that the rates herein established are just and reasonable rates.

Basing its order on the foregoing findings of fact and on the other findings which are contained in the opinion which precedes this order,

*It is hereby ordered* that the Southern Pacific Company be and the same is hereby authorized to publish and file, within thirty days from the date of this order, in tariff effective thirty days after filing with the commission, the following class rates:

*Rates in Cents per 100 Pounds.*

	1	2	3	4	5	A	B	C	D	E
Between San Francisco, South Vallejo and Sacramento.....	24	21	18	16	13	13	12	10	9	8
Between San Francisco, Sacramento, South Vallejo and river landings shown on pages 10 and 11 of Local Freight Tariff 541-A (C. R. C. No. 1916) .....										

And to increase other class and commodity freight rates in conformity with the application and Exhibit A, attached to the application and made part thereof, except that no rates shall be advanced above the present rail rates.

Dated at San Francisco, California, this seventeenth day of December, 1917.



## DECISION No. 4969.

IN THE MATTER OF THE APPLICATION OF THE CALIFORNIA NAVIGATION AND IMPROVEMENT COMPANY FOR PERMISSION TO INCREASE FREIGHT RATES.

Application No. 2930.

Decided December 17, 1917.

Applicant, operating river boats for the transportation of passengers and freight between San Francisco and Stockton and intermediate points, having shown that its present freight rates are unremunerative, is granted permission to put into effect within thirty days after filing with the commission, increases of approximately 15 per cent, provided that no rates to any points served by applicant shall be increased to a figure higher than the rail rate between San Francisco and common rail points or Stockton and common rail points.

*Sanborn & Roehl*, for Applicant.

*Seth Mann*, for San Francisco Chamber of Commerce.

*G. J. Bradley*, for Merchants and Manufacturers Association of Sacramento.

*H. M. Wade*, for Oakland Chamber of Commerce and certain San Francisco shippers.

*H. W. Adams*, for California Fruit Distributors of Sacramento.

*J. P. Irish, Jr.* and *J. C. Sommers*, for the Stockton Chamber of Commerce.

BY THE COMMISSION.

## OPINION.

Applicant, a steamship line operating between San Francisco and Stockton and way landings, alleges that owing to increased costs of operation its present freight rates are unremunerative and seeks authority, under section 63 of the Public Utilities Act, to make an increase of approximately 15 per cent in freight rates contained in its Local Tariff No. 7 (C. R. C. No. 1) except the following class rates, proposed changes in which are specifically set forth:

**Class Rates in Cents per 100 Pounds Between Stockton and Points Shown.**

	1	2	3	4	5	A	B	C	D	E
San Francisco, Oakland—										
Present .....	10	10	9	9	7	7	6	5½	5½	5½
Proposed .....	20½	18½	16	14	12½	12½	10½	10	9	7
Crockett—										
Present .....	11	9	8	7	6	6	6	6	5½	5½
Proposed .....	20½	18½	16	14	12½	12½	9	8	7	6
Port Costa, Benicia, Martinez—										
Present .....	12	10	8	7	6	6	6	6	5½	5½
Proposed .....	20½	18½	16	14	12½	12½	9	8	7	6
Bay Point, Pittsburg, Antioch—										
Present .....	10	10	9	9	7	7	6	5½	5½	5½
Proposed .....	20½	18½	16	14	12½	12½	9	8	7	6

The California Navigation and Improvement Company has been serving the territory between San Francisco and Stockton ever since its formation in 1889, at which time it succeeded to the interests of the California Steam Navigation Company and the San Joaquin Improvement Company. Witness for applicant testified that the history of the California Steam Navigation Company dates back almost to the Civil War and that the San Joaquin Improvement Company came into existence in the early eighties.

From the same source, it is learned that some two years after the organization of the California Navigation and Improvement Company, the Union Transportation Company was formed and operated in this section until about 1905, when it was taken over by the California Transportation Company, which is one of the lines now serving this territory. Evidence shows that prior to 1912, applicant and its contemporaries were in severe competition with each other and with the rail carriers serving Stockton and other common points, as a result of which the steamer lines met with heavy losses.

Petitioner's witness testified that the California Navigation and Improvement Company would have been unable to overcome the serious losses due to the protracted rate struggle were it not for the fact that the stockholders also operated a tow boat and barge fleet entirely independent of the Navigation Company, the profits from which enabled the Navigation Company, in a measure, to recoup its losses.

Applicant owns six vessels, two of which—the steamers T. C. Walker and J. D. Peters—make trips daily, except Sunday, between San Francisco and Stockton, stopping at way landings en route. The steamers Leader and J. R. McDonald are operated intermittently throughout the year, their function being to render an auxiliary service by gathering the freight at way landings where the amount of traffic is too great for the Walker and Peters to handle.

A barge, known as the Sperry, is now under lease to the Sperry Flour Company, which it is stated is for the purpose of facilitating the handling of the flour company's business by having shippers load the barge instead of their shipments being picked up by applicant's steamer. At Stockton a barge equipped with a hoisting apparatus is permanently employed for the purpose of lifting and lightering heavy castings and machinery. The distance traversed by steamer between San Francisco and Stockton is 103 miles.

Several exhibits were introduced by applicant and it was stipulated that the evidence in related steamer applications and any additional data submitted by either side, subsequent to the hearing, should be made a part of the record. Following is applicant's Exhibit No. 1,

showing operating revenues and expenses for the calendar year 1916, with estimated figures for 1917:

*California Navigation and Improvement Company—Comparative Statement of Operating Revenue, Expenses and Income.*

	1916 (actual)	1917 (estimated)
Freight revenue .....	\$161,322 83	\$219,278 59
Passenger revenue .....	69,010 26	69,010 26
	<b>\$230,333 09</b>	<b>\$288,288 85</b>
Operating expenses—		
Steamer operation:		
Pay roll and labor .....	\$75,173 50	\$82,690 85 (Inc. 10%)
Fuel .....	13,467 06	13,467 06
Stores (commissary) .....	27,634 31	34,542 89 (Inc. 25%)
Sundry steamer expense .....	12,185 83	13,404 41 (Inc. 10%)
Maintenance and repair .....	32,449 01	40,561 26 (Inc. 25%)
	<b>\$160,909 71</b>	<b>\$184,666 47</b>
Agency—Salaries of employees, light, water, etc. ....	17,633 79	17,633 79*
General office, including officers, clerks, stationery supplies and rent .....	21,051 42	22,551 42 (Inc. \$1,500)
Advertising .....	655 25	655 25
Over, short and damage .....	2,000 07	2,000 07
Accident and casualty .....	427 81	427 81
Insurance (paid) .....	4,040 00	4,040 00
Taxes .....	2,332 58	2,332 58
Compensation (disability, paid) .....	528 20	528 20
Litigation and legal .....	4,547 81	2,500 00 Dec.\$2047.81
	<b>\$214,126 64</b>	<b>\$237,335 59</b>
Net operating revenue .....	<b>\$16,206 45</b>	<b>\$50,953 26</b>
Reserve for depreciation and reconstruction, 7 per cent on \$223,000 .....	<b>\$15,610 00</b>	<b>\$15,610 00</b>
Reserve for marine insurance, 6 per cent on reproduction value of \$444,000, less \$4,040, paid .....	22,600 00	22,600 00
Compensation insurance, less \$528.20, paid .....	4,660 30	5,160 30†
Return on investment, 10 per cent on \$223,000 .....	22,300 00	22,300 00
	<b>\$65,170 30</b>	<b>\$65,670 30</b>
Deficit .....	<b>\$48,963 85</b>	<b>\$14,717 04</b>

In addition to the above deficit, this company's oil contract expires October, 1918, and the increase in price of oil based on present market conditions will be \$12,000.00.

From this exhibit it will be seen that applicant anticipated being able to take full advantage of the proposed advances, if granted, and thereby increase its revenue about \$57,955.00 annually, but subsequent to the hearing a statement was filed showing that on account of withdrawal of rail applications to increase rates at common points, applicant will

\*Increase contemplated, if earnings permit.

†Increase \$500.00 due to pay roll and commissions.

be unable to advance its rates above the present rail scale, which will have the effect of reducing the estimated increase in revenue for 1917 to approximately \$30,000.00.

The figures covering operating revenue and expenses for 1916 show the actual result of operation for this period but it is pertinent to state at this point that these figures are not fully representative of normal conditions.

During some six weeks of June and July, applicant's business was affected by a strike of its river boat employees. As a consequence its fleet was tied up for practically the duration of the strike, resulting in a considerable diminution of revenue and a corresponding reduction of operating expense. This will be more clearly evidenced by the following table compiled from monthly statement of revenues and expenditures for 1916, furnished by applicant at request of the commission:

Month	Revenue	Expense
May -----	\$23,137 75	\$17,552 95
June -----		8,120 84
July -----	8,297 56	10,987 74
August -----	24,126 83	16,810 49

It will be noted that during June applicant's revenue was nothing and for July was only \$8,297.56 as against \$23,137.75 for the preceding month of operation. It is fair to assume that under normal conditions the revenue and expenses for the months of June and July would be equally as great as for the month of May.

The maintenance and repair item of \$32,449.01 in Exhibit No. 1 is the actual amount spent for this purpose in 1916, which has been increased 25 per cent in estimating the expense for 1917.

We believe that a more equitable method of estimating an annual expense of this kind is to average the amounts actually paid for a period of years. Accordingly, the commission has had its auditing department make an examination of applicant's books from which we find that during the five year period, 1912 to 1916 (earlier figures being unavailable), the total amount expended for repairs to the four steamers was \$133,537.00, an average of \$26,707.00 per year, or in round figures, and making an allowance for the two barges, \$27,000.00.

A more accurate index of the situation for 1917 will be obtained from the following table which revises certain figures in Exhibit No. 1 in conformity with the foregoing explanation:

	Year 1916	Year 1917
Operating revenue -----	\$268,311 08	\$298,311 08
Operating expenses—		
Pay roll and labor-----	81,897 60	190,067 36
Fuel -----	15,141 16	15,141 16
Stores (commissary)-----	28,921 33	36,151 66
Sundry steamer expenses-----	13,446 34	14,790 97
Maintenance and repairs-----	27,000 00	33,750 00
Agency and general-----	54,919 36	52,669 12
Totals -----	\$221,325 79	\$242,590 27
Net operating revenue-----	\$46,985 24	\$55,720 76

<sup>1</sup>Increase 10 per cent.    <sup>2</sup>Increase 25 per cent.

From this will be seen that applicant's estimated net operating revenue for 1917 is \$55,720.76.

No account has thus far been taken of certain fixed charges consisting of reserve for depreciation and reconstruction, reserve for marine insurance, compensation insurance and return on investment, claimed by applicant as \$65,670.30, which, if deducted, will leave a deficit of \$9,949.54. It is unnecessary to pass herein on the exact amount to be allowed under these heads.

There was much argument at the hearing over the amount of \$15,610.00 representing reserve for depreciation and reconstruction, which is figured at 7 per cent of the listed or book value of floating equipment. If this item were cut in half, there would still be a deficit of some \$2,000.00 with prospect of additional increased expense at the expiration of applicant's fuel oil contract in October, 1918.

Applicant has been conservative in estimating the increased expenses for 1917. The cost of commissary supplies, which is one of the largest items, is increased 25 per cent, whereas actual figures show a much greater percentage of increase, as will be readily illustrated by the following comparisons of actual prices paid for a few principal commodities:

Articles	Price		Percentage of Increase
	1916	1917	
Flour, per barrel-----	\$6 40	\$15 00	134
Lard, per pound-----	14	24	70
Condensed milk, per case-----	6 85	9 00	31
Canned salmon, per dozen-----	85	2 00	135
Olive oil -----	1 30	3 00	130
Bacon, per pound-----	26	34	30
Rice, per 100 pounds-----	3 35	7 00	109

The increasing price of rope, which is used in large quantities, is worthy of mention. An exhibit was filed consisting of three invoices showing the price of this commodity in 1915 at 11 cents per pound; in 1916, 14 cents; and in 1917, 30 cents, or an increase of almost 200 per cent. The conservatism shown in estimating the increased prices of commissary stores is also present in the instance of repair expense, the testimony in related cases showing the estimated increase of 25 per cent to be a moderate figure. It is apparent these expenses will greatly exceed the figures shown in applicant's exhibit.

That the present 10-cent scale between San Francisco and Stockton is low, is self-evident and requires no further substantiation. The following comparative table will serve to show the incongruity of the present adjustment.

Class Rates in Cents per 100 Pounds.

	Between San Francisco and	1	2	3	4	5	A	B	C	D	E
103	Stockton, via applicant—										
	Present .....	10	10	9	9	7	7	6	5½	5½	5½
	Proposed .....	20½	18½	16	14	12½	12½	10½	10	9	7
91	Stockton, via rail.....	18	16	14	12	11	11	9	8½	8	6
	Landings intermediate to										
	Stockton, via applicant.	22	20	17	15	14	14	12	9½	9	9
125	Sacramento, via water—										
	Present .....	22	20	17	15	12	12	11	8½	8	8
	Ordered in by commis-										
	sion .....	24	21	18	16	13	13	12	10	9	8
48	Napa, via water.....	15	13	11	10	9	9	8	7	6	5
30	Benicia, via applicant....	12	10	8	7	6	6	6	6	5½	5½

From the preceding table, it will be noted that the class scale between San Francisco and Stockton, involving an arduous river service, is generally lower than for deep water movement between San Francisco and Benicia and considerably below the scale between San Francisco and intermediate river landings, thereby not only unduly discriminating as between localities, but placing an unjust burden upon other traffic.

Upon the facts of record, we are of the opinion that applicant has substantiated its contention that the existing rates are insufficient to yield a proper return in view of the increased expense of operation, and that application should be granted with the exception that rates, between San Francisco, Oakland and points common with rail carriers, such as Crockett, Port Costa, Martinez and Bay Points, shall not be increased to a figure exceeding the rail rates in effect between San Francisco and such points, and that rates between Stockton and rail common points shall not be increased to a figure above the rail rates between such points. Class rates between Oakland and river-way landings have been maintained a uniform three-cent differential over San

Francisco and, without approving the reasonableness of such relationship, it will be ordered that in advancing such rates the present differential must not be exceeded.

The following form of order will be entered:

# ORDER.

The California Navigation and Improvement Company, having applied, under section 63 of the Public Utilities Act, to increase certain freight rates as set forth in the opinion which precedes this order, a public hearing having been held and the Railroad Commission being fully apprised in the premises, the Railroad Commission hereby finds as a fact that the existing freight rates of petitioner are unremunerative and that the rates herein established are just and reasonable rates.

Basing this order on the foregoing finding of fact and on the further findings of fact contained in the opinion which precedes this order,

*It is hereby ordered* that the California Navigation and Improvement Company be and the same is hereby authorized to publish and file in tariff, effective thirty days after filing with the commission, the following class rates:

**Rates in Cents per 100 Pounds.**

Between Stockton and	1	2	3	4	5	A	B	C	D	E
San Francisco, Oakland.....	18	16	14	12	11	11	9	8½	8	6
Crockett, Port Costa, Benicia, Martinez .....	18	16	14	12	11	11	8	7	6	5½
South Vallejo, North Vallejo, Bay Point .....	18	16	14	12	11	11	8	7	6	5½
Pittsburg (Black Diamond).....	15	14	11	10	9	9	8	7	6	5½
Antioch .....	15	13	10	9	8	8	8	6	5½	5½

And to increase other class and commodity rates in conformity with the application and Exhibit A, attached to the application and made a part thereof, except that rates between San Francisco, Oakland and rail common points shall not be increased to a figure higher than the rail rates between San Francisco and such points and that rates between Stockton and rail common points shall not be increased to a figure above the rail rates between such points.

Dated at San Francisco, California, this seventeenth day of December, 1917.

## DECISION No. 4970.

## IN THE MATTER OF THE APPLICATION OF CALIFORNIA TRANSPORTATION COMPANY FOR PERMISSION TO INCREASE FREIGHT RATES.

Application No. 2929.

*Decided December 17, 1917.*

Applicant's present operating ratio being such that it is absolutely essential to increase rates to enable it to continue the service it is giving the shipping public on river points, San Francisco-Sacramento and San Francisco-Stockton, schedules of rates embodying increases of approximately 15 per cent established, to become effective thirty days after filing, provided that rates established San Francisco, Oakland and common rail points and Stockton and common rail points shall not exceed the railroad rates between such communities.

*Sanborn & Rochl*, for Applicant.

*Seth Mann*, for San Francisco Chamber of Commerce.

*G. J. Bradley*, for Merchants and Manufacturers Association of Sacramento.

*H. M. Wade*, for Oakland Chamber of Commerce and certain San Francisco shippers.

*H. W. Adams*, for California Fruit Distributors of Sacramento.

*J. P. Irish, Jr.* and *J. C. Sommers*, for the Stockton Chamber of Commerce.

BY THE COMMISSION.

## OPINION.

Applicant is a steamship company operating a line between San Francisco and Stockton and between San Francisco and Sacramento.

Alleging that increased costs of operation render its existing freight rates unremunerative, applicant seeks authority, under section 63 of the Public Utilities Act, to increase by approximately 15 per cent the rates in its Local Freight Tariff No. 8 (C. R. C. No. 1) and Local Freight Tariff No. 10 (C. R. C. No. 33) except in the following instances where specific increases are requested:

Class Rates in Cents per 100 Pounds—Between Stockton and San Francisco-Oakland.

	1	2	3	4	5	A	B	C	D	E
Present .....	10	10	9	9	7	7	6	5½	5½	5½
Proposed .....	20½	18½	16	14	12½	12½	10½	10	9	7

It is proposed to cancel rate of 65 cents per ton on grain in lots of not less than 80,000 pounds from Stockton to San Francisco and Port Costa, which will subject such traffic to rates now in effect on lots of



not less than 40,000 pounds, viz: 90 cents to San Francisco and 80 cents to Port Costa; or, if the 15 per cent increase is granted, \$1.03½ to San Francisco and 92 cents to Port Costa.

Permission is also asked to cancel commodity rates between San Francisco and Sacramento, on pages 27 and 28 of Local Freight Tariff No. 13 (C. R. C. No. 33), applicable to lots of less than 20,000 pounds, allowing class rates, governed by Western Classifications, to apply thereafter.

The California Transportation Company is one of the pioneers in the river traffic, having inaugurated service on the Sacramento River in 1856 by means of sailing sloops. This method of transportation was superseded by the use of steamboats during 1866, since which time a constant service has been maintained.

Applicant maintains two fleets of vessels which serve, respectively, the Sacramento River section and the territory between San Francisco and Stockton, latter involving movement over the San Joaquin, Mokelumne, Old and Middle rivers.

Thus we have presented in this application two well-defined situations entirely independent of each other which will be considered separately, and, to facilitate discussion, will be alluded to throughout this report as the Sacramento Division in the first instance and the Stockton Division in the second.

Addressing ourselves to that portion concerning the Sacramento Division, testimony discloses that in this section applicant operates six steamers, four of which are in use during the entire year and two for a period of three or four months of the year. Two trips daily, except Sunday, are made in both directions between San Francisco and Sacramento. A steamer leaves San Francisco at 3 p.m., stopping at way landings en route; another leaves at 6.30 p.m., making no freight stops at intermediate landings. In the reverse direction the method of operation is the same except that the hours of departure are 12 m. and 6.30 p.m. During the fruit season, lasting from about the middle of June to the middle of August, the service is augmented by two additional boats which alternately leave San Francisco daily except Saturday at 6 p.m., serving the way landings and returning to San Francisco with fruit and produce.

The principal competitors of this company on the Sacramento River are the Southern Pacific Company and San Francisco and Sacramento Transportation Company, in addition to which are a number of irregularly-operated craft. The distance via river between San Francisco and Sacramento is 125 miles.

Several exhibits were filed in support of application, one of which, comparing the operating revenues and expenditures for 1916 with estimated figures for 1917, follows:

*Exhibit No. 1 of California Transportation Company Operating Between San Francisco and Sacramento and Sacramento River Points.*

	1916 (actual)		1917 (estimated)
Freight revenue .....	\$263,494 24		\$303,018 34 (Inc. 15%)
Passenger revenue .....	98,220 06		98,220 06
<b>Totals .....</b>	<b>\$361,714 30</b>	<b>1</b>	<b>\$401,238 40</b>
Operating expenses—			
Steamer operation:			
Pay roll and labor .....	\$134,445 05		\$148,289 55 (Inc. 10%)
Fuel .....	27,266 87		27,266 87
Stores, commissary .....	50,085 82		62,606 27 (Inc. 25%)
Sundry steamer expenses .....	23,196 95		25,516 63 (Inc. 10%)
Maintenance and repairs .....	28,594 82		34,744 92 (Inc. 25%)
	\$263,589 51	<b>2</b>	\$298,024 22
Agency expense—			
Salaries of employees .....	\$20,709 48	<b>3</b>	\$20,709 48
Light, water, etc. ....			
General office and administration .....	37,640 74	<b>4</b>	39,140 74 (Inc. \$1,500)
Maintenance of reserve equipment .....	3,236 08	<b>5</b>	4,045 13 (Inc. \$770)
Fire insurance .....	5,546 05		5,546 05
	\$330,721 86	<b>6</b>	\$367,465 62
<b>Net operating revenue .....</b>	<b>\$30,992 54</b>	<b>7</b>	<b>\$33,772 76</b>
Reserve for depreciation and reconstruction at 6 per cent. ....	\$29,192 88	<b>8</b>	\$29,192 88
Ditto, or reserve equipment .....	2,373 90	<b>9</b>	2,373 90
Reserve for marine insurance, 6 per cent on replacement value .....	56,900 00	<b>10</b>	56,900 00
Compensation liability insurance .....	8,905 82	<b>11</b>	9,648 69
Return on investment—			
In operated equipment at 10 per cent. ....	48,648 82		
In reserve equipment at 8 per cent. ....	3,165 07		
In wharves and landings at 8 per cent. ....	3,208 00		55,022 02
	\$152,394 49	<b>12</b>	\$153,137 49
<b>Deficit .....</b>	<b>\$121,401 95</b>		<b>\$119,364 73</b>

In addition to the above deficit, the company's fuel oil contract expires on October 31, 1918, and the increase in price of oil based on present market conditions will be \$21,700.00.

The apportionment of operating expense, as between freight and passenger traffic, was made by charging to each service such items as apply exclusively to such service and distributing the balance on a revenue basis, which figures 75½ per cent for freight and 24½ per cent for passenger expense.

It was stipulated between counsel that supplementary data to be furnished by applicant or protestants after the hearing would be considered in evidence.

The estimated revenue for 1917, shown in Item 1 of Exhibit No. 1, is predicated on applicant's ability to take advantage of the entire

increase prayed for but, subsequent to hearing, statement was filed showing that, due to the withdrawal of rail line applications to increase rates between common points, petitioner would not be able to avail itself of the full increases prayed for and that the total advance in revenue on the Sacramento Division would not exceed \$20,000.00.

Item No. 2 of exhibit shows amount for maintenance and repair for 1916 of \$28,594.82 and estimated figure for 1917 of \$34,744.92. An examination by the commission's auditing department of this company's repair items comprehending a period of ten years, discloses an average yearly maintenance and repair expense for this division of \$39,863.00 which is more representative of an expense of this kind than by taking the amount for a single year.

By applying these corrected figures to Exhibit No. 1 an entirely different picture is presented of the estimated results for 1917, as will be seen from the following table:

*Estimated Operating Revenue and Expenses for Year 1917.*

1. Operating revenue .....	\$381,714 30
2. Operating expenses:	
Steamer operation—	
A—Pay roll and labor .....	\$148,289 55
B—Fuel .....	27,266 87
C—Commissary stores .....	62,606 27
D—Sundry steamer expense.....	25,516 63
E—Maintenance and repairs (average per year \$39,863, increased 25%)	49,828 75
Total .....	\$313,508 07
3. Agency expense .....	20,709 48
4. General offices and administration .....	39,140 74
5. Maintenance of reserve equipment .....	4,045 13
6. Fire insurance .....	5,546 05
Total operating expenses.....	\$382,949 47
7. Operating deficit .....	\$1,235 17

Considerable discussion took place at the hearing concerning the amount allowed under Item 8 of Exhibit No. 1 for reserve for depreciation and reconstruction, but eliminating this item entirely the estimated deficit for 1917 will be increased to approximately \$122,805.00 by including other items shown in exhibit, viz, marine insurance, liability insurance and return on investment.

The percentage of increase estimated for labor, stores and repairs seems to be very conservative, testimony in this and related cases revealing that some of the expenses greatly exceed the estimate.

Permission is asked to cancel commodity rates on lots of less than 20,000 pounds applying between San Francisco and Sacramento only. Under the present adjustment, the rates between these terminals are lower than at intermediate landings, owing to nonintermediate application. Their cancellation will remove the long and short haul violation

and effect an adjustment more in harmony with established practices of rate making by subjecting such traffic to the class scale. This portion of application will, therefore, be granted.

Protestants spoke in terms of praise concerning the service between San Francisco and Sacramento rendered by the California Transportation Company and Southern Pacific Company and expressly stated they did not want this service curtailed. They were of the belief, however, that these carriers were unnecessarily duplicating service at the intermediate bank landings during the winter months.

This feature was considered in Application No. 2924 of the Southern Pacific Company and in decision of this date suggestions made as to rearrangement of service on the part of the two companies. It will, therefore, be unnecessary to discuss this further in the present proceedings.

It has been conclusively shown that applicant is confronted with a large deficit for 1917 with prospect of greater burden with the expiration of its oil contract in 1918. While accuracy of the amounts charged off to reserve, insurance and return on investment may be questioned, we do not deem it necessary to further analyze them, as it could not substantially alter the general financial situation.

It has been shown that applicant renders an expediated service of great value to the shippers and receivers of freight along this route, a withdrawal of which will seriously affect those availing themselves of this kind of transportation.

It is equally apparent that if this service is to be continued, applicant, under the showing made, must be given some relief in the shape of increased rates.

Following are the present and proposed class rates, together with those applicable, viz, rail; rates are stated in cents per 100 pounds:

	1	2	3	4	5	A	B	C	D	E
1. Between San Francisco Oakland and Sacramento, via steamer:										
Present -----	22	20	17	15	12	12	11	8½	8	8
Proposed -----	25½	23	19½	17½	14	14	12½	10	9	9
2. Between San Francisco-Oakland and Sacramento, via rail:	24	21	18	16	13	13	12	10	9	7
3. San Francisco-Sacramento and way landings on Sacramento River—										
Present -----	22	20	17	15	12	12	11	8½	8	8
Proposed -----	25½	23	19½	17½	14	14	12½	10	9	9
4. Oakland and way landings on Sacramento River—										
Present -----	25	23	20	18	15	15	14	11½	11	11
Proposed -----	29	26½	23	20½	17½	17½	16	13	12½	12½

Upon careful consideration of the evidence submitted, we are of the opinion that the present rates are unremunerative and that this portion of application should be granted, with the exception that class rates shown in Items Nos. 1 and 3 of preceding table shall not be increased to a figure exceeding the rail rates between San Francisco and Sacramento, as per Item No. 2.

Class rates, between Oakland and Sacramento River way landings, have been maintained a uniform three-cent differential over San Francisco and, without approving the reasonableness of such adjustment, it will be ordered that in advancing such rates the present differential over San Francisco must not be exceeded.

We shall now discuss the remaining portion of this application, comprehending movement on the Stockton Division.

In this section we find that petitioner's efforts are directed almost entirely to handling the delta traffic, only a weekly service being rendered by this company between San Francisco and Stockton. Two vessels are in use throughout the year, alternately leaving San Francisco daily, except Saturday, at 6 p.m., serving the bay and river landings en route and returning to San Francisco about 6 a.m. the following day. During the produce season, extending from approximately August to November, inclusive, two additional vessels are placed in operation in the delta section as an auxiliary to the regular service.

An exhibit was filed by applicant in support of its petition, which, in substance, follows, the expense as between freight and passenger traffic being apportioned in the same manner as exhibit for Sacramento Division :

*Exhibit No. 2 of the California Transportation Company Operating on San Joaquin, Old, Middle and Mokelumne Rivers and Tributaries, Including Stockton, Crockett, Benicia, Martinez, Pittsburg and Antioch.*

	1916 (actual)	1917 (estimated)
Freight revenue -----	\$176,849 77	\$205,336 52
Passenger revenue -----	11,836 76	11,836 76
	<b>\$188,686 53</b>	<b>\$217,173 28</b>
Operating expense—		
Steamer operation:		
Pay roll and labor -----	\$96,884 81	\$105,553 29 (inc. 10%)
Fuel -----	21,843 72	21,843 72
Stores (commissary) -----	28,807 32	36,009 15 (inc. 25%)
Sundry steamer expense -----	7,075 54	7,783 09 (inc. 10%)
Maintenance and repair -----	14,936 91	18,671 14 (inc. 25%)
	<b>\$169,508 30</b>	<b>\$189,820 39</b>
Agency—expense -----	13,806 32	13,806 32
General office and administration -----	25,127 50	25,127 50
Maintenance of reserve equipment -----	2,157 39	2,696 73 (inc. 25%)
Insurance paid -----	2,966 45	2,966 45
	<b>\$213,565 96</b>	<b>\$234,417 39</b>
Operating deficit -----	<b>\$24,879 43</b>	<b>\$17,244 11</b>
Reserve for depreciation and reconstruction at 6 per cent on value of operated steamers as \$185,300.00 -----	<b>\$11,118 00</b>	<b>\$11,118 00</b>
Ditto, on reserve equipment, 40 per cent of total depreciation on \$65,941.82 as \$39,560.50 -----	1,582 60	1,582 60
Compensation and liability insurance -----	4,857 92	5,343 30 (inc. \$485.38)
Marine insurance on present cost of reproduction of steamers operated—\$130,875.00 at 6 per cent -----	25,852 50	25,852 50
Return on investment—10 per cent on \$185,300.00, operated vessels -----	18,530 00	18,530 00
40 per cent of 8 per cent on \$65,941.82, reserve equipment -----	2,110 14	2,110 14
8 per cent on \$15,060.94, wharves and landings -----	3,604 88	3,604 88
	<b>\$67,656 04</b>	<b>\$68,141 42</b>
Deficit -----	<b>\$92,535 47</b>	<b>\$85,385 53</b>

In addition to above, increased oil price after October 31, 1918, \$17,000.00.

From the preceding table it will be seen that applicant's actual operating deficit for 1916 was \$24,879.43 and that this amount is further increased to \$92,535.47, if certain fixed charges are taken into consideration.

The estimated out-of-pocket amount for 1917 is \$17,244.11, and after adding such items as reserve for depreciation and reconstruction, insurance, and return on investment, an estimated total deficit of \$85,385.53 is established.

Applicant's expectation as to increased revenue for 1917 will not be fully realized, as it can not avail itself of the entire increase, if granted,

owing to necessity of meeting rail rates at common points, and therefore a greater deficit than that shown may reasonably be anticipated.

It is unnecessary to enter into an extended discussion of the situation portrayed by applicant's statement of operating results, as the exhibit itself conclusively demonstrates the urgent need of relief if this line is to continue to serve the useful purpose for which it was established.

This company, in so far as its operations on the Stockton Division are concerned, serves the same territory and is confronted with the same conditions as its copetitioner, the California Navigation and Improvement Company, which have been fully considered in decision of today in Application No. 2930. It will, therefore, be unnecessary to burden this report with a further discussion, as the conclusions reached in that case apply with equal force to the instant proceeding.

Following are the present and proposed, also rail, class rates between Stockton and San Francisco-Oakland:

Rates in Cents per 100 Pounds.

	1	2	3	4	5	A	B	C	D	E
Present -----	10	10	9	9	7	7	6	5½	5½	5½
Proposed -----	20½	18½	16	14	12½	12½	10½	10	9	7
Rail -----	18	16	14	12	11	11	9	8½	8	6

After careful consideration, we are of the opinion that applicant's present rates in this section are insufficient to yield a proper return and that this portion of application should be granted, with the exception that rates between San Francisco, Oakland and points common with rail carriers, such as Crockett, Port Costa, Martinez and Bay Point, shall not be increased to a figure exceeding the rail rates in effect between San Francisco and such points, and that the rates between Stockton and rail common points shall not be increased to a figure above the rail rates between such points.

Class rates between Oakland and river way landings have maintained a uniform three-cent differential over San Francisco and without approving the reasonableness of such relationship, it will be ordered that in advancing such rates the present differential must not be exceeded.

The following form of order will be entered:

#### ORDER.

The California Transportation Company having applied, under section 63 of the Public Utilities Act, to increase certain freight rates as set forth in the opinion which precedes this order, a public hearing having been held and the Railroad Commission being fully apprised in the premises, the Railroad Commission hereby finds as a fact that

the existing freight rates of petitioner are unremunerative and that the rates herein established are just and reasonable rates.

Basing this order on the foregoing finding of fact and on the further findings of fact contained in the opinion which precedes this order,

*It is hereby ordered* that the California Transportation Company be and the same is hereby authorized to publish and file in tariff, effective thirty days after filing with the commission, the following class rates:

*Class Rates in Cents per 100 Pounds.*

	1	2	3	4	5	A	B	C	D	E
Between San Francisco-Oakland and Sacramento.....	24	21	18	16	13	13	12	10	9	8
Between San Francisco Sacramento and Sacramento River way landings .....	24	21	18	16	13	13	12	10	9	8
Between Oakland and Sacramento River way landings....	27	24	21	19	16	16	15	13	12	11
Between Stockton and San Francisco-Oakland .....	18	16	14	12	11	11	9	8	8	6
Between Stockton and Crockett, Port Costa, Benicia, Martinez	18	16	14	12	11	11	8	7	6	5½
Between Stockton and South Vallejo, North Vallejo, Bay Point .....	18	16	14	12	11	11	8	7	6	5½
Between Stockton and Pittsburg (Black Diamond).....	15	14	11	10	9	9	8	7	6	5½
Between Stockton and Antioch	15	13	10	9	8	8	8	6	5½	5½

And to increase other class and commodity rates in conformity with the application and Exhibit A, attached to the application and made a part thereof, except that rates between San Francisco, Oakland and rail common points shall not be increased to a figure higher than the rail rates between San Francisco and such points, and that rates between Stockton and rail common points shall not be increased to a figure above the rail rates between such points.

Dated at San Francisco, California, this seventeenth day of December, 1917.

DECISION No. 4971.

IN THE MATTER OF THE APPLICATION OF THE SAN FRANCISCO AND SACRAMENTO NAVIGATION COMPANY FOR PERMISSION TO INCREASE FREIGHT RATES.

Application No. 2931.

*Decided December 17, 1917.*

Upon a showing that applicant is urgently in need of additional revenues to continue the service which it is now giving between San Francisco and Sacra-



mento River points, revised schedule of rates established, containing increases of approximately 15 per cent, to become effective twenty days after filing.

*Sanborn & Roehl*, for Applicant.

*Seth Mann*, for San Francisco Chamber of Commerce.

*G. J. Bradley*, for Merchants and Manufacturers Association of Sacramento.

*H. W. Wade*, for Oakland Chamber of Commerce and certain San Francisco shippers.

*H. W. Adams*, for California Fruit Distributors of Sacramento.

BY THE COMMISSION.

#### OPINION.

Applicant, a steamship line operating on the Sacramento River between San Francisco and Sacramento, alleges that owing to increased costs of operation its present freight rates are unremunerative and seeks authority, under section 63 of the Public Utilities Act, to make the following increases in its Local Freight Tariff No. 1, C. R. C. No. 1:

Class Rates Between San Francisco and Sacramento—In Cents per 100 Pounds.

	1	2	3	4	5	A	B	C	D	E
Proposed -----	20½	18	14½	12½	10	10	9	8	7½	7½
Present -----	16	14	12	10	8	8	7½	6½	6½	6½
Increase -----	4½	4	2½	2½	2	2	1½	1½	1½	1½

It is proposed to cancel commodity rates between San Francisco and Sacramento and intermediate points, as shown on pages 9, 10, 11 and 12 of tariff applicable to quantities of less than 20,000 pounds, class rates, governed by Western Classification, to apply thereafter.

In addition to the foregoing applicant requests authority to make an increase of approximately 15 per cent in the remaining commodity rates.

Before proceeding to a discussion of the issues raised by this application a brief history of the organization and purpose of the San Francisco and Sacramento Navigation Company will be beneficial.

Prior to April 1, 1917, the Farmers Transportation Company and the Sacramento Transportation Company operated in their individual capacities between San Francisco and Sacramento.

On the date mentioned, by virtue of agreement approved by this commission in Application No. 2778, Decision No. 4182, the individual companies withdrew and the San Francisco and Sacramento Navigation Company assumed service between San Francisco and Sacramento. Operation of the vessels above Sacramento continued in the hands of the individual lines. This change was made in the interest of a more economical plan of operation, in pursuance of which the Farmers

Transportation Company and the Sacramento Transportation Company leased certain vessels to the operating company.

This leasing arrangement enabled the withdrawal of one sailing per week of the steamers of the individual lines between San Francisco and Sacramento where such service is unnecessary and the placing of these steamers in the upper river service where they are urgently needed.

The San Francisco and Sacramento Navigation Company established as its scale of rates between San Francisco and Sacramento the rates of either the Farmers Transportation Company or the Sacramento Transportation Company, whichever were lower.

Under the terms of the agreement each of the lessors pay all of the operating expenses of their respective vessels leased to the San Francisco and Sacramento Navigation Company and receive as rental the entire gross earnings of such vessels.

The lessee keeps no accounts whatever. Its sole function is that of an operating agency of the parent companies with respect to service between San Francisco and Sacramento and the revenues and expenditures of the San Francisco and Sacramento Navigation Company are merely a reflection of those of the Farmers Transportation Company and the Sacramento Transportation Company.

Returning to the application, it is proposed to increase class rates from a 16- to 20½-cent scale.

The present rates are those of the Farmers Transportation Company in effect at the time of consolidation. Following table shows rates of the former companies and those proposed by applicant. Rates are stated in cents per 100 pounds.

Name	1	2	3	4	5	A	B	C	D	E
Farmers Transportation Co.	16	14	12	10	8	8	7½	6½	6½	6½
Sacramento Trans. Co.	22	20	17	15	14	14	12	9½	9	9
San Francisco and Sacramento Navigation Co. (proposed)	20½	18	11½	12½	10	10	9	8	7½	7½

The 22-cents scale is now in effect by Southern Pacific steamers and California Transportation Company.

From above showing it will be seen that the scale of class rates which it is proposed to establish is on a lower basis than that used by one of the original companies and now in force over the lines of its competitors, the Southern Pacific Company and California Transportation Company.

Applicant requests authority to cancel commodity rates applicable to lots of less than 20,000 pounds which will have the effect of placing such traffic under class rates. Commodity rates are usually granted in consideration of a large volume of traffic or where the peculiar require-

ments are such as to render it expedient to establish a lower basis than would ordinarily apply under the classification.

In the absence of good reasons to the contrary, general merchandise should be subject to the class scale and in this case we do not find any exceptional reasons which would justify a departure from the general rule.

This application in its entirety is based on a plea of insufficient revenue. In our preliminary and final reports on applications of the Farmers Transportation Company and the Sacramento Transportation Company, Decisions Nos. 4507, 4753 and 4754, the operating and financial conditions of these lines were fully discussed and it is therefore unnecessary to burden this report with a repetition of such information. It will suffice to redirect attention to applicant's exhibits showing that these lines are confronted with an estimated operating deficit for the year 1917 of approximately \$10,630.00, which would be increased to a total estimated deficit of approximately \$148,579.00 if petitioner's claims for return on investment at rate of 8 per cent insurance and depreciation should be allowed as to which matter it is unnecessary to reach a conclusion herein.

Attention may also again be called to testimony concerning increase in price of fuel oil, to the effect that with expiration of present contracts in the early part of 1918 an additional expense of \$44,000.00 yearly will be occasioned, based on the market price at time of the hearing.

The companies have endeavored to curtail operating expenses wherever possible, as evidenced by the consolidation above referred to, which, as near as can be estimated, effects a saving of some \$8,400.00 annually, but which will be diminished by an amount representing the loss of revenue due to less frequent sailings.

We believe it has been clearly shown that regardless of efforts made to eliminate expense, these lines are operating at a loss and are in urgent need of more revenue. With this fact established the duty of the commission is apparent. The relief prayed for must be granted unless it can be shown that the properties have been mismanaged or the rates proposed are unreasonable.

Evidence discloses that these lines have been carefully managed and that a most rigid economy has been enforced, notwithstanding which the companies have been unable to declare dividends or to set aside an amount for insurance or renewal of equipment. It is obvious that either relief must be granted or the lines will of necessity have to discontinue operations, and we are of the opinion that public convenience will be best served by permitting these carriers to continue the service they are now rendering.

After careful consideration of the circumstances and conditions surrounding this particular traffic, we are of the opinion that the

increases requested are reasonable and should be granted. An appropriate form of order will be entered.

#### ORDER.

The San Francisco and Sacramento Navigation Company having applied, under section 63 of the Public Utilities Act, for authority to increase certain freight rates, as shown in the opinion preceding this order, and a public hearing having been held and the commission being fully apprised in the premises, the Railroad Commission hereby finds as a fact that the existing freight rates of petitioner are unremunerative and that the rates herein established are just and reasonable rates.

Basing this order on the foregoing finding of fact and on the further findings of fact contained in the opinion which precedes this order,

*It is hereby ordered* that applicant be authorized to establish the following class rates between San Francisco and Sacramento:

	1	2	3	4	5	A	B	C	D	E
Rates in cents per 100 pounds...	20½	18	14½	12½	10	10	9	8	7½	7½

*It is hereby further ordered* that applicant be authorized to cancel commodity rates between San Francisco and Sacramento and intermediate points, applicable to quantities less than 20,000 pounds, shown on pages 9, 10, 11 and 12 of its Local Freight Tariff No. 1, C. R. C. No. 1, and to increase by 15 per cent the remaining commodity rates in this tariff in accordance with table of rates annexed to and made a part of application and marked Exhibit "A," the increased rates to become effective twenty days after tariff containing the charges have been published and placed on file with the commission.

Dated at San Francisco, California, this seventeenth day of December, 1917.

#### DECISION No. 4972.

IN THE MATTER OF THE APPLICATION OF VAN NUYS WATER COMPANY, OWENSMOUTH WATER COMPANY AND THE BOARD OF PUBLIC SERVICE COMMISSIONERS OF THE CITY OF LOS ANGELES, FOR AN ORDER AUTHORIZING THE SALE OF PUBLIC UTILITY PROPERTY.

Application No. 3377.

*Decided December 17, 1917.*

BY THE COMMISSION.

#### ORDER.

Van Nuys Water Company, Marian Water Company and Owensmouth Water Company having applied to this commission for authority

to transfer to the board of public service commissioners of the city of Los Angeles for the sum of \$20,666.50 the following public utility water property:

(a) All water pipes, service connections, meters, appliances, appurtenances and extensions constituting and pertaining to the water distributing system known as the water works of the Van Nuys Water Company, and located in or contiguous to that portion of the city of Los Angeles known as Van Nuys, also an eight-inch pipe line now laid in Sherman way, beginning at a point 413 feet west of the west line of Whitsett avenue and ending at a point 572 feet east of the east line of Haseltine street, including 511 feet of 6-inch pipe laid under the east Sherman way bridge and being a portion of said 8-inch line;

(b) All water pipes, service connections, meters, appliances, appurtenances and extensions constituting and pertaining to the water distributing system known as the water works of the Marian Water Company and located in or contiguous to that portion of the city of Los Angeles known as Marian;

(c) All water pipes, service connections, meters, appliances, appurtenances and extensions constituting and pertaining to the water distributing system known as the water works of the Owensmouth Water Company, and located in or contiguous to that portion of the city of Los Angeles known as Owensmouth;

(d) All franchises and rights of way owned or held by said first parties, and used or necessary in connection with the construction, maintenance or operation of each of said water distributing systems, and of said pipe line located in Sherman way."

And the board of public service commissioners of the city of Los Angeles having joined in this application, and it appearing to this commission that this is not a case in which a public hearing is necessary,

*It is hereby ordered* that said application be and the same is hereby granted upon the following conditions:

1. The authority herein granted shall apply only to such property as shall be transferred on or before June 30, 1918.

2. When any conveyance of property is made in accordance with this order, a certified copy thereof shall, within fifteen (15) days thereafter be filed with the Railroad Commission.

Dated at San Francisco, California, this seventeenth day of December, 1917.

## DECISION No. 4973.

IN THE MATTER OF THE APPLICATION OF THE PACIFIC TELEPHONE AND TELEGRAPH COMPANY FOR AN ORDER OF THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA GRANTING IT A CERTIFICATE THAT PUBLIC CONVENIENCE AND NECESSITY REQUIRE THE EXERCISE BY IT OF THE RIGHTS AND PRIVILEGES CONFERRED UPON IT UNDER THE FRANCHISE GRANTED IT BY THE CITY OF FULLERTON BY ORDINANCE NO. 122, ON OCTOBER 14, 1912.

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Application No. 3131.

*Decided December 17, 1917.*

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BY THE COMMISSION.

**ORDER.**

The Pacific Telephone and Telegraph Company having applied to this commission for a certificate declaring that public convenience and necessity require the exercise by it of the franchise privileges conferred by Ordinance No. 122 of the city of Fullerton, attached to the application herein and marked Exhibit "B," which ordinance grants to said company, its successors and assigns, the right to place, erect and maintain poles, wires and other appliances and conductors, and to lay underground conduits for wires for the transmission of electricity for telephone and telegraph purposes, in, upon and under the streets, alleys, avenues, thoroughfares and public highways, in the city of Fullerton, state of California, and to exercise the privilege of operating telephone and telegraph instruments and of doing a telephone and telegraph business within said city of Fullerton; and a public hearing having been held in said matter and the commission being of the opinion that said application should be granted.

*It is hereby ordered* that said application be and the same is hereby granted; provided, that neither said applicant, its successors nor assigns, shall ever claim before this commission, or any other public body, a value for said franchise for rate fixing or other purposes in excess of the amount actually paid to the city of Fullerton as the consideration for the grant of such franchise, which amount appears from the application to be \$500.00.

Dated at San Francisco, California, this seventeenth day of December, 1917.

## DECISION No. 4974.

IN THE MATTER OF THE APPLICATION OF THE PACIFIC TELEPHONE AND TELEGRAPH COMPANY FOR AN ORDER OF THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA GRANTING IT A CERTIFICATE THAT PUBLIC CONVENIENCE AND NECESSITY REQUIRE THE EXERCISE BY IT OF THE RIGHTS AND PRIVILEGES CONFERRED UPON IT UNDER THE FRANCHISE GRANTED IT BY THE CITY OF SANTA ANA BY ORDINANCE NO. 543 ON THE NINETEENTH DAY OF AUGUST, 1912.

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Application No. 3132.

*Decided December 17, 1917.*

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BY THE COMMISSION.

**ORDER.**

The Pacific Telephone and Telegraph Company having applied to this commission for a certificate declaring that public convenience and necessity require the exercise by it of the franchise privileges conferred by Ordinance No. 543 of the city of Santa Ana, attached to the application herein and marked Exhibit "B," which ordinance grants to said company, its successors and assigns, the right to place, erect and maintain poles, wires and other appliances and conductors, and to lay underground conduits for wires for the transmission of electricity for telephone and telegraph purposes, in, upon and under the streets, alleys, avenues, thoroughfares and public highways, in the city of Santa Ana, state of California, and to exercise the privilege of operating telephone and telegraph instruments and of doing a telephone and telegraph business within said city of Santa Ana; and a public hearing having been held in said matter and the commission being of the opinion that said application should be granted,

*It is hereby ordered* that said application be and the same is hereby granted; provided, that neither said applicant, its successors nor assigns, shall ever claim before this commission, or any other public body, a value for said franchise for rate fixing or other purposes in excess of the amount actually paid to the city of Santa Ana as the consideration for the grant of such franchise, which amount appears from the application to be \$250.00.

Dated at San Francisco, California, this seventeenth day of December, 1917.

## DECISION No. 4975.

IN THE MATTER OF THE APPLICATION OF THE PACIFIC TELEPHONE AND TELEGRAPH COMPANY FOR AN ORDER OF THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA GRANTING IT A CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY PERMITTING THE EXERCISE BY IT OF THE RIGHTS AND PRIVILEGES CONFERRED UPON IT UNDER THE FRANCHISE GRANTED IT BY THE CITY OF COLTON BY ORDINANCE NO. 345 ON THE SEVENTH DAY OF FEBRUARY, 1916.

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Application No. 3135.

*Decided December 17, 1917.*

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BY THE COMMISSION.

**ORDER.**

The Pacific Telephone and Telegraph Company having applied to this commission for a certificate declaring that public convenience and necessity require the exercise by it of the franchise privileges conferred by Ordinance No. 345 of the city of Colton, attached to the application herein and marked Exhibit "B," which ordinance grants to said company, its successors and assigns, the right to place, erect and maintain poles, wires and other appliances and conductors, and to lay underground conduits for wires for the transmission of electricity for telephone and telegraph purposes, in, upon and under the streets, alleys, avenues, thoroughfares and public highways, in the city of Colton, state of California, and to exercise the privilege of operating telephone and telegraph instruments and of doing a telephone and telegraph business within said city of Colton; and a public hearing having been held in said matter and the commission being of the opinion that said application should be granted,

*It is hereby ordered* that said application be and the same is hereby granted; provided, that neither said applicant, its successors nor assigns, shall ever claim before this commission, or any other public body, a value for said franchise for rate fixing or other purposes in excess of the amount actually paid to the city of Colton as the consideration for the grant of such franchise, which amount appears from the application to be \$280.25.

Dated at San Francisco, California, this seventeenth day of December, 1917.



## DECISION No. 4976.

IN THE MATTER OF THE APPLICATION OF THE PACIFIC TELEPHONE AND TELEGRAPH COMPANY FOR AN ORDER OF THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA GRANTING IT A CERTIFICATE THAT PUBLIC CONVENIENCE AND NECESSITY REQUIRE THE EXERCISE BY IT OF THE RIGHTS AND PRIVILEGES CONFERRED UPON IT UNDER THE FRANCHISE GRANTED IT BY THE CITY OF ORANGE, BY ORDINANCE NO. 86, ON MAY 13, 1912.

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Application No. 3157.

*Decided December 17, 1917.*

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BY THE COMMISSION.

**ORDER.**

The Pacific Telephone and Telegraph Company having applied to this commission for a certificate declaring that public convenience and necessity require the exercise by it of the franchise privileges conferred by Ordinance No. 86 of the city of Orange attached to the application herein and marked Exhibit "A," which ordinance grants to said company, its successors and assigns, the right to place, erect and maintain poles, wires and other appliances and conductors for the transmission of electricity for telephone and telegraph purposes, in and upon the streets, alleys, avenues, thoroughfares and public highways, in the city of Orange, state of California, and to exercise the privilege of operating telephone and telegraph instruments and of doing a telephone and telegraph business within said city of Orange; and the commission being of the opinion that this is not a case in which a public hearing is necessary and that the application should be granted,

*It is hereby ordered* that said application be and the same is hereby granted; provided, that neither said applicant, its successors nor assigns, shall ever claim before this commission, or any other public body, a value for said franchise for rate fixing or other purposes in excess of the amount actually paid to the city of Orange as the consideration for the grant of such franchise, which amount appears from the application to be \$1,000.00.

Dated at San Francisco, California, this seventeenth day of December, 1917.

Decision No. 4977, grade crossing; not printed. See end of volume.

DECISION No. 4978.

IN THE MATTER OF THE APPLICATION OF ANSEL M. EASTON FOR  
CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY TO  
OPERATE AUTOMOBILE STAGE BETWEEN BROADWAY STATION  
IN THE CITY OF BURLINGAME AND INTERSECTION OF HILLSIDE  
DRIVE AND ALVARADO AVENUE IN EASTON ADDITION TO BUR-  
LINGAME NO. 7 IN THE COUNTY OF SAN MATEO.

Application No. 3193.

*Decided December 19, 1917.*

BY THE COMMISSION.

FIRST SUPPLEMENTAL ORDER.

In accordance with the order heretofore made in this proceeding on November 19, 1917, Ansel M. Easton has filed with the Railroad Commission certified copies of permits from the board of supervisors of San Mateo County and from the board of trustees of the city of Burlingame, as required by section 3 of chapter 213, laws of 1917.

Dated at San Francisco, California, this nineteenth day of December, 1917.

DECISION No. 4979.

CITY OF CALEXICO

vs.

IMPERIAL TELEPHONE COMPANY AND THE PACIFIC TELEPHONE  
AND TELEGRAPH COMPANY.

Case No. 1116.

*Decided December 19, 1917.*

Complaint alleging inadequate and inefficient telephone service in the city of Calexico: Defendant agreeing to install a battery system in lieu of the magneto exchange at present in operation, such portion of the complaint dismissed and defendant is directed to take immediate steps to correct and overcome delays found to be prevalent in answering subscribers' calls.

*William P. Butcher*, for Complainant.

*James T. Shaw*, for Defendants.

GORDON, *Commissioner*.

OPINION.

This is a complaint of the city of Calexico, Imperial County, against Imperial Telephone Company and The Pacific Telephone and Telegraph Company to the effect that the equipment maintained and the service

provided by these companies at Calexico are inadequate and inefficient, and in which the Railroad Commission is asked to require the companies to provide adequate facilities and efficient service. Defendants have filed their formal answer, generally denying all of the principal allegations of the complaint. The complaint was heard at Calexico on November 6, 1917.

Imperial Telephone Company, which operates at various points in Imperial County, is owned and controlled by The Pacific Telephone and Telegraph Company. At Calexico, prior to the filing of this complaint, it was operating a "magneto" exchange serving approximately 275 subscribers. The complaint alleges, among other things, that the use of magneto telephones which require the use of hand generators when signalling the central office operators, results in various and frequent delays and interruptions to service, both local and long distance.

Since this complaint was filed with the Railroad Commission, defendants have converted the former magneto equipment into minor common battery equipment, and have thus removed the objectionable features of the former type. An inspection of the present equipment was made by the telephone and telegraph division of the commission prior to the hearing, and it appears from this inspection that the prayer of complainants that adequate equipment be provided has been satisfied. Service observations were also taken, both prior and subsequent to the hearing. These observations indicate that the service has become satisfactory except that the operators are frequently unduly slow in responding. The service observations which were taken by the commission's representatives, however, show that the fault does not lie entirely with the operators. During conversations between subscribers, or as long as a subscriber's telephone receiver remains off the hook at his telephone, a signal light continues to show at the switchboard. When the telephone receiver is restored to the hook, the signal light is extinguished, indicating to the operator that the conversation has been completed. If at that moment the operator may happen, as frequently occurs, to be engaged in setting up a connection for another subscriber who has called in, and if, before she has had an opportunity to observe that the first subscriber's signal light has been extinguished, he may again take down the telephone receiver to place another call, she may allow him to wait, not knowing that his first conversation has been completed.

When taking these service observations, it was also noted that, in some instances after the completion of conversations, subscribers attempted to recall the operators without first having returned the telephone receiver to the hook, thereby giving no indication that first conversations had been concluded. While in such cases as those referred to, the subscriber is clearly at fault, it was also observed on a number of

tests which were made that, with reasonable care on the part of the subscriber to allow a reasonable time within which to clear his line before again calling in, an average time of approximately thirty seconds was required to engage the operator's attention. Occasional delays will of necessity occur, particularly during abnormally busy periods, but with the exercise of reasonable care by the subscriber and with proper supervision on the part of operators, such delays will be the exception rather than the rule. This complaint is one which it seems is too general at Calexico, and is a matter as to which the commission will insist that defendants promptly apply the necessary corrective measures.

The following order is recommended:

**ORDER.**

Complaint having been filed with the Railroad Commission by the city of Calexico, a municipal corporation, complainant, versus Imperial Telephone Company, a corporation, and The Pacific Telephone and Telegraph Company, a corporation, defendants, a public hearing having been held, and this proceeding having been submitted and being now ready for decision.

*It is hereby ordered* that the defendants herein, Imperial Telephone Company and The Pacific Telephone and Telegraph Company, at once take the necessary steps to overcome and correct delays by operators in answering subscribers' calls as set forth in the opinion which precedes this order.

*It is hereby further ordered* that in all other respects the above-entitled proceeding be and the same is hereby dismissed.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the state of California.

Dated at San Francisco, California, this nineteenth day of December, 1917.

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DECISION No. 4980.

IN THE MATTER OF THE APPLICATION OF TOM PINKSTON AND C. W. RAYPHOLTZ FOR CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY TO OPERATE AUTOMOBILE STAGE SERVICE BETWEEN PIEDRA AND FRESNO.

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Application No. 3338.

*Decided December 19, 1917.*

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Petition for a certificate permitting the operation of an automobile stage line for the transportation of passengers and baggage between the cities of Fresno and Piedra; investigation showing that traffic between Sanger and Fresno is being adequately served by existing transportation companies, applicant granted a

certificate permitting operation between Sanger and Piedra only, provided all necessary permits are secured from the public authorities of the territory through which applicant will operate.

*G. L. Ayresworth*, for Applicants.

*H. R. Savage*, city attorney, for city of Sanger.

*H. R. Savage*, for C. C. Allen of Fresno-Sanger Auto Stage Line.

*Jas. A. Burns*, for Calvin Marple, of Arrow Auto Stage.

*GORDON*, Commissioner.

#### OPINION.

Tom Pinkston and C. W. Raypholtz, partners in business, have filed herein a petition asking that the Railroad Commission make its order declaring that public convenience and necessity require the operation by petitioners of an automobile stage line as a common carrier of passengers, packages and baggage between Fresno and Piedra in Fresno County.

A public hearing was held at Fresno on December 10, 1917, the matter was duly submitted and is now ready for decision.

Petitioners have been operating two automobiles as common carriers of passengers between Fresno and Piedra for a period of about sixty days. The Fresno terminus is at the Collins Hotel and the Piedra terminus at Piedra Bridge.

The equipment used by petitioners consists of two five-passenger Ford automobiles, one a 1915 model licensed by the State Motor Vehicle Department under number 307018, the other a 1917 model for which license has been applied for.

The time schedule proposed by petitioners contemplates two round trips daily between Fresno and Piedra, serving the towns of Sanger and Centerville.

The fares proposed to be charged are as follows:

#### *One Way Fares.*

Miles	Between	Fresno	Sanger	Centerville
14	Sanger	\$0 50	----	----
20	Centerville	75	\$0 35	----
31	Piedra	1 50	1 00	\$0 50

Children under 5 years, free; 5 to 10 years, half fare.

Baggage: Thirty pounds baggage carried free.

Packages and excess baggage will be carried at rate of one cent per pound, minimum charge ten cents. No package or shipment weighing over one hundred pounds will be handled by passenger automobile.

It appears from the evidence in this proceeding that there is no automobile stage service between Fresno and Piedra and that the community at Piedra have no regular method of transportation other than the railroad service of The Atchison, Topeka and Santa Fe Railway branch line from Reedley to Piedra over which a mixed train is operated.

Service between Sanger and Fresno is frequent and is cared for by three established lines which operate a total of 39 round trips between these points. The existing lines between Fresno and Sanger are not patronized to capacity and could handle additional business if same could be secured. I find as a fact that the operation of another stage line between Fresno and Sanger is not necessary for the convenience of the public.

Between Sanger and Piedra the public convenience and necessity would be served by the proposed automobile stage line and parties desiring transportation to and from Fresno can utilize the existing lines between Fresno and Sanger.

Petitioners have not as yet secured permits from the county of Fresno or the city of Sanger as provided by section 3, chapter 213, laws of 1917, nor have they arranged to equip their cars in accordance with the order of the Railroad Commission in Case 1110, Decision No. 4814.

After careful consideration of the evidence in this proceeding, I am of the opinion and find as a fact that public convenience and necessity require the operation by petitioners of an automobile stage line as a common carrier of passengers, baggage and packages between Sanger and Piedra, subject to the conditions contained in the order herein, and submit the following form of order:

#### ORDER.

Tom Pinkston and C. W. Raypholtz, partners in business, having filed a petition herein asking that the Railroad Commission make its order declaring that public convenience and necessity require the operation by petitioners of an automobile stage line as a common carrier of passengers, baggage and packages between Fresno and Piedra in Fresno County, a public hearing having been held, the matter having been submitted and being now ready for decision, the Railroad Commission hereby finds as a fact that public convenience and necessity require the operation by Tom Pinkston and C. W. Raypholtz, partners in business, of an automobile stage line as a common carrier of passengers, baggage and packages between Sanger and Piedra, on the conditions hereinafter specified.

Basing its order on the foregoing finding of fact and on the other findings of fact contained in the opinion which precedes this order, the Railroad Commission hereby declares that public convenience and necessity require the operation by Tom Pinkston and C. W. Raypholtz, partners in business, of an automobile stage line as a common carrier of passengers, baggage and packages between Sanger and Piedra; provided, that this declaration shall not become effective until said Tom Pinkston and C. W. Raypholtz, partners in business, shall have

secured from the Railroad Commission a supplemental order reciting that they have filed herein certified copies of permits from the county of Fresno and the city of Sanger as provided by section 3 of chapter 213, laws of 1917; and provided, further, that the rights and privileges herein granted shall not be assigned or transferred unless the written consent of the Railroad Commission to such assignment or transfer has first been secured.

*It is hereby ordered* that no vehicle may be operated under this certificate unless such vehicle is owned by the applicants herein or is leased by such applicants under a contract or agreement on a basis satisfactory to the Railroad Commission.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the state of California.

Dated at San Francisco, California, this nineteenth day of December, 1917.

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DECISION No. 4981.

IN THE MATTER OF THE APPLICATION OF MOUNTAIN LIGHT AND WATER COMPANY FOR AN ORDER AUTHORIZING APPLICANT TO INSTALL METERS AND DISTRIBUTE AND CHARGE FOR ELECTRIC ENERGY AT METER RATES AND TO GIVE TWENTY-FOUR HOUR SERVICE EACH DAY IN THE TOWN OF BROOKDALE, SANTA CRUZ COUNTY, STATE OF CALIFORNIA.

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Application No. 3393.

*Decided December 19, 1917.*

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BY THE COMMISSION.

**ORDER.**

Whereas the Mountain Light and Water Company, a utility serving electric energy to the inhabitants of the town of Brookdale, Santa Cruz County, has, among other schedules, a flat rate for residence and household lighting service of ten dollars per calendar year, which schedule contains the provisions that "under this schedule the company reserves the right at its option to install meters and charge meter rate with \$10.00 annual minimum"; and

Whereas this schedule with said proviso was in effect prior to the time that this commission assumed jurisdiction over said Mountain Light and Water Company and has been continued in effect until the present time; and

Whereas Mountain Light and Water Company is now prepared to install meters on the services of all of its consumers and has applied

to this commission for authority to cancel said flat rate and substitute therefor its existing meter rates; and

Whereas applicant proposes on January 1, 1918, to institute a twenty-four hours service each day instead of the limited service heretofore rendered; and

Whereas the authority herein requested appears to be in the interest of efficiency and economy, and, in our opinion, will not effect an undue hardship on any of the consumers served by the applicant, and it appearing to the commission that this is not a case in which a public hearing is necessary, and that the application should be granted,

*It is hereby ordered* that Mountain Light and Water Company be and the same is hereby authorized to install meters and to collect meter rates for all electric service rendered after such installation on and after January 1, 1918, upon the condition, and not otherwise, that Mountain Light and Water Company, within ten days from the date hereof, shall file with this commission corrected schedules, and shall provide therein for twenty-four hours electric service each day throughout the year.

Dated at San Francisco, California, this nineteenth day of December, 1917.

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DECISION No. 4982.

CITY OF TURLOCK

vs.

YOSEMITE POWER COMPANY.

Case No. 909.

IN THE MATTER OF THE APPLICATION OF THE YOSEMITE POWER COMPANY FOR AN ORDER FIXING JUST AND REASONABLE RATES AND REGULATIONS FOR ELECTRIC SERVICE.

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Application No. 2410.

*Decided December 20, 1917.*

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BY THE COMMISSION.

**FIRST SUPPLEMENTAL ORDER.**

Whereas in its Decision No. 4692 in this matter the commission ordered,

“That Sierra and San Francisco Power Company, as the new owner of the electric utility properties involved in the proceedings herein, shall endeavor to reach a mutually satisfactory agreement with the officials of the city of Turlock in regard to the improvement of the street-lighting service in that city and shall, within



thirty days from the date hereof, file with this commission for its approval a plan for disposing of this part of the complaint."

And,

Whereas for good cause appearing Sierra and San Francisco Power Company has been unable to comply with this order within the time specified, and has asked for an extension of this time to include December 31, 1917,

*It is hereby ordered* that Sierra and San Francisco Power Company on or before December 31, 1917, shall file with this commission for its approval a plan for satisfying the complaint of the city of Turlock in regard to street lighting service.

Dated at San Francisco, California, this twentieth day of December, 1917.

#### DECISION No. 4983.

IN THE MATTER OF THE APPLICATION OF OAKLAND, ANTIOCH AND EASTERN RAILWAY TO ISSUE CERTAIN NOTES.

Application No. 3304.

*Decided December 21, 1917.*

Applicant authorized to renew for a period of not to exceed December 31, 1918, promissory notes aggregating a total sum of \$99,691.13 and to pledge as security for certain of such notes 109 of its first mortgage bonds, provided that at no time shall the notes exceed 60 per cent of the bonds pledged as security therefor.

*Jesse Steinhart*, for Applicant.

EDGERTON, *Commissioner*.

#### OPINION.

In this application as amended at the hearing, Oakland, Antioch and Eastern Railway asks for authority to issue notes for a term of one year or less to refund the following notes, the proceeds of which were used for capital expenditures:

Payee	Date	Term	Interest rate, per cent	Principal
Westinghouse Elec. and Mfg. Co.-----	Feb. 28, 1916	90 days	6	\$15,000 00
Westinghouse Elec. and Mfg. Co.-----	Dec. 14, 1916	90 days	6	30,385 13
Westinghouse Elec. and Mfg. Co.-----	Nov. 1, 1916	90 days	6	124,306 00
First National Bank of Oakland-----	June 30, 1916	Demand	6	15,000 00
First National Bank of Oakland-----	June 30, 1916	Demand	6	10,000 00
C. A. Smith Lumber Company-----	Aug. 23, 1917	6 mos.	6	25,000 00

<sup>1</sup>Originally \$26,641.23.

<sup>2</sup>Originally four notes, as follows: \$1,050.00, \$1,500.00, \$1,600.00, \$1,700.00.

Of the foregoing notes those to Westinghouse Electric and Manufacturing Company are secured by pledge of 109 of applicant's first mortgage 5 per cent sinking fund 30-year gold bonds, and those to the First National Bank of Oakland by pledge of 42 of said bonds. The note to C. A. Smith Lumber Company is unsecured. The issue of notes to the above-named payees and the pledge of bonds as security therefor has heretofore been authorized by this commission. (See Decisions Nos. 3454 and 3561, Vol. 10, Opinions and Orders of the Railroad Commission of California, pages 469 and 647, respectively.) From the evidence now before the commission, I am of the opinion that applicant may be permitted to refund the above notes by the issue of new notes and also to pledge bonds as security for the notes to Westinghouse Electric and Manufacturing Company and the First National Bank of Oakland, subject, however, to the terms of the following order:

#### ORDER.

Oakland, Antioch and Eastern Railway having applied to this commission for authority to issue its promissory notes for a term of one year or less in renewal of certain promissory notes now outstanding in the total sum of \$99,691.13 as hereinbefore more fully set forth, and a public hearing having been held, and it appearing to this commission that the money to be procured by the issue of said notes is reasonably required for the purposes set forth in the following order, which purposes are not in whole or in part reasonably chargeable to operating expenses or to income,

*It is hereby ordered* that Oakland, Antioch and Eastern Railway be and it is hereby authorized to issue its promissory notes as follows for the purpose of renewing the promissory notes referred to in the opinion which precedes this order:

Payee	Date of maturity not later than	Interest rate not to exceed (per cent)	Principal not to exceed
Westinghouse Elec. and Manufacturing Co.....	Dec. 31, 1918	6	\$15,000 00
Westinghouse Elec. and Manufacturing Co.....	Dec. 31, 1918	6	30,385 13
Westinghouse Elec. and Manufacturing Co.....	Dec. 31, 1918	6	21,306 00
First National Bank of Oakland.....	Dec. 31, 1918	6	15,000 00
First National Bank of Oakland.....	Dec. 31, 1918	6	10,006 00
C. A. Smith Lumber Company.....	Dec. 31, 1918	6	5,000 00

*It is hereby further ordered* that Oakland, Antioch and Eastern Railway be and it is hereby authorized to pledge not to exceed 109 of its first mortgage 5 per cent sinking fund 30-year gold bonds as security for the notes authorized to be issued to Westinghouse Electric and Manufacturing Company and not to exceed 42 of said bonds as security for the notes authorized to be issued to First National Bank of Oakland,

provided that the bonds are pledged at such ratio that the face value of the notes secured thereby shall at no time be less than approximately 60 per cent of the value of the bonds pledged.

The authority herein granted is granted upon the following conditions and not otherwise:

1. The notes herein authorized to be issued may be renewed from time to time provided that no note shall be issued having a date of maturity later than December 31, 1918.

2. As the principal of the notes herein authorized is paid off, bonds pledged as collateral shall be released in such an amount so that the face value of the notes shall never be less than approximately 60 per cent of the bonds pledged as collateral to secure the payment thereof.

3. Applicant shall report in writing to the Railroad Commission the fact of the issue of any of the notes or the pledge of any of the bonds herein authorized as required in General Order No. 24, said order being made a part of this order in so far as the same is applicable.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the state of California.

Dated at San Francisco, California, this twenty-first day of December, 1917.

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DECISION No. 4984.

IN THE MATTER OF THE APPLICATION OF KINGS COUNTY, CALIFORNIA, FOR AN ORDER DETERMINING WHETHER OR NOT A GRADE CROSSING WILL BE PERMITTED ACROSS THE TRACKS OF THE SOUTHERN PACIFIC RAILROAD COMPANY IN THE COUNTY OF KINGS, STATE OF CALIFORNIA.

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Application No. 3360.

*Decided December 26, 1917.*

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Applicant's petition for permission to construct a road crossing at grade across the tracks of Southern Pacific Company approximately three and one-half miles west of Hanford, denied, investigation showing that little if any traffic would use such crossing, which traffic is adequately served by existing crossings.

*R. Justin Miller*, for Applicant.

*George D. Squires*, for Southern Pacific Company.

*GORDON*, Commissioner.

OPINION.

This application was filed on December 1, 1917, by the county of Kings, and a public hearing was held at Hanford on December 17, 1917.

The proposed crossing is located over the Kerman-Armona branch of the Southern Pacific Company, at a point about one mile north of Armona and three and one-half miles west of Hanford, and is one-quarter of a mile north of a crossing on a parallel county road, and three-quarters of a mile south of a similar road crossing.

The road mentioned in the application has been dedicated to the public and has been opened to the right of way of the railroad company. On the west side of the track the east and west road is intersected by a road running north and south through the center of the section to a point where it intersects the west line of the railroad property. This north and south road is not dedicated but it has been open to and used by the public for a number of years.

The testimony showed that the road on which the crossing is desired runs through a subdivision of what is known as the Verona Vine and Orchard Company's Tract. All the present property owners in this subdivision, with the exception of two, have frontage on the existing county roads.

The principal shipping point for the district is Armona, and travel to and from this point is now made as readily as would be possible if the crossing applied for were granted. The east and west travel through this tract would be so light as to be negligible.

It is my opinion that public convenience and necessity do not warrant the opening of a crossing over the railroad at the point mentioned in the application.

#### ORDER.

County of Kings, California, having applied to the Railroad Commission for authority to construct a public highway at grade across the tracks of the Southern Pacific Company, in the county of Kings, as shown by the map attached to the application; and a public hearing having been held thereon, and it appearing that public safety and convenience do not require such a crossing,

*It is hereby ordered*, that this application be and the same hereby is denied.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the state of California.

Dated at San Francisco, California, this twenty-sixth day of December, 1917.

## DECISION No. 4985.

IN THE MATTER OF THE APPLICATION OF IMPERIAL VALLEY FARM LANDS ASSOCIATION AND OF IMPERIAL UTILITIES CORPORATION FOR AN ORDER OR ORDERS AUTHORIZING THE SALE AND TRANSFER BY THE SAID IMPERIAL VALLEY FARM LANDS ASSOCIATION TO THE SAID IMPERIAL UTILITIES CORPORATION OF THE CALIPATRIA WATER WORKS, WATER PLANT AND SYSTEM, AND OF THE NILAND WATER WORKS, WATER PLANT AND SYSTEM IN IMPERIAL COUNTY, STATE OF CALIFORNIA.

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Application No. 3106.

*Decided December 26, 1917.*

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The Railroad Commission will not grant a certificate of public convenience and necessity to a utility until it has secured a legal and valid franchise from the public authorities of the district in which it intends to operate. Applicant directed to file within sixty days, data showing that it has secured a valid franchise permitting the construction and operation of a water utility in the town of Niland, in lieu of the illegal franchise which it holds at the present time.

The commission, while authorizing applicant to execute a mortgage and issue thereunder an amount of bonds to be used in the purchase of public utility property, does not approve the plan contained therein whereby the entire future financing of applicant is proposed to be done through the issuance of bonds.

Permission granted for the transfer of water properties at Niland and Calipatria to the Imperial Utilities Corporation and the latter authorized to issue \$10,000.00 face value of bonds, \$9,000.00 to be issued at full face value in payment for properties acquired, the balance to be issued only for purposes hereafter specified.

*Charles F. Potter, for Applicants.*

BY THE COMMISSION.

**OPINION.**

In the amended petition herein, Imperial Valley Farm Lands Association, Carl F. Schader and Arthur E. Hull ask authority to sell, and Imperial Utilities Corporation ask authority to purchase, public utility water properties at Calipatria and Niland, Imperial County, and fully described in Exhibit "I" attached to the application. Imperial Utilities Corporation also asks the Railroad Commission to declare that public convenience and necessity require it to exercise the rights and privileges granted to Arthur E. Hull by the board of supervisors of Imperial County under franchise dated May 18, 1914, and to authorize the corporation to execute a so-called "open end mortgage" to secure the payment of bonds and to issue thereunder at this time \$10,000.00 face value of 6 per cent ten-year bonds. Bonds in the amount of \$9,000.00 are to be issued in payment for the property to be acquired from Imperial Valley Farm Lands Association, Carl F. Schader and Arthur E. Hull. The proceeds from the remaining \$1,000.00 of bonds

will be expended for such purposes as the commission may designate in a supplemental order.

Public hearings were held on October 4 and 5 before Examiner Westover.

Imperial Valley Farm Lands Association and its agents, Carl F. Schader and Arthur E. Hull, constructed the water works at Niland and Calipatria. These plants were installed primarily to supply water to the unincorporated territory known as Niland and Calipatria, Imperial County. Petitioners estimate the reproduction cost new of the properties at \$18,311.25 and the reproduction cost new less depreciation at \$12,729.40. The original cost of the properties is reported at \$14,666.60. In addition to this original cost, the Imperial Utilities Corporation reports that it has expended more than \$9,000.00 to extend and improve the water works and systems. The improvements thus made are referred to in the decision relative to Application No. 3079.

It is estimated that the daily consumption of water at Calipatria varies from 75,000 to 80,000 gallons, and at Niland amounts to approximately 250,000 gallons. At the former place there are about 120 consumers and at the latter 25. The Southern Pacific Company is the principal consumer at Niland, using approximately 210,000 gallons daily.

These water plants obtain their water supply through the medium of 500 shares of stock in the Imperial Water Company No. 3, a mutual organization. The water is taken from the Colorado River through the Imperial Valley Irrigation system. Each share entitles the owner to four acre-feet of water per year. Certificates for the 500 shares and also 121 shares additional are deposited in escrow under agreement by which Imperial Utilities Corporation may purchase in blocks of 50 shares at any time within five years after April 10, 1917, upon payment of \$15.00 per share. It is expected that five years operation of the plants will show how much stock is permanently needed.

By Decision No. 1933 of November 12, 1914 (see Vol. 5, Opinions and Orders of the Railroad Commission of California, p. 712), the commission made its order declaring that public convenience and necessity require the exercise by Niland Water Company of rights and privileges under a franchise thereafter to be procured from the county of Imperial, and authorizing the issue of stock and bonds to provide for the construction of the plant and system at Niland. The order was made subject to applicants therein obtaining a valid franchise. Copy of franchise granted by the board of supervisors of Imperial County to Arthur E. Hull on May 18, 1914, and previously filed in the above proceeding was held by the commission not to conform to the law. This franchise is again presented in this proceeding and we make the

same ruling. This portion of the application will therefore be held in abeyance, to be covered by supplemental order when satisfactory evidence is presented that a valid franchise has been procured.

By Decision No. 2585 of July 9, 1915 (see Vol. 7, Opinions and Orders of the Railroad Commission of California, p. 594), the commission made its order declaring that public convenience and necessity required the establishment of the system at Calipatria and fixing rates for water. It appears from the testimony herein that easements for the necessary mains were reserved in dedicating and deeding streets and alleys so that no franchise for the system at Calipatria is needed.

Imperial Utilities Corporation proposes to execute a so-called "open end mortgage." It contains, among others, a provision that the bonds are to be issued in series; that the first \$10,000.00 of bonds issued are to be known as "Series A" first mortgage 6 per cent gold bonds due June 1, 1927; that no bonds shall be issued except upon an order of the Railroad Commission of the state of California or other commission having jurisdiction; that the bonds of any series subsequent to "Series A" may be issued in amounts equal in face value to 80 per cent of the capital expenditures; that every certificate filed with the trustee requesting it to certify bonds of any series subsequent to "Series A" must show that the net income of the Imperial Utilities Corporation for the twelve (12) months immediately preceding the date of the certificate is equal to three times the amount of interest charged against the outstanding bonds of "Series A" and that the annual interest to be charged against the additional bonds about to be issued, together with the annual interest charged against the outstanding "Series A" bonds, does not in the aggregate exceed one-half of said net annual income of Imperial Utilities Corporation, and that within thirty (30) days of January 1, 1922, and annually thereafter, Imperial Utilities Corporation shall set aside for sinking fund purposes to redeem bonds 10 per cent of its net earnings.

Counsel for petitioners stated at the hearing that the mortgage and bond issue are designed for the permanent financing of the company and that "it is expected that under the terms of this mortgage the entire financing of the future of the corporation will be taken care of, with respect to any extensions, improvements and developments at Calipatria and Niland, as well as any other company that the company may take in and operate in the state of California." We assume that counsel refers to that part of the financing which may properly be done through the issue of bonds. Certainly the authority herein granted to execute a mortgage and issue bonds should not be interpreted as an approval of a policy which looks to the future financing of

this utility entirely through the issue of bonds, nor should it be interpreted as indicative of the terms and conditions under which the corporation may issue bonds hereunder.

At this time, Imperial Utilities Corporation asks authority to issue \$10,000.00 of bonds. Bonds in the amount of \$9,000.00 are to be issued in payment for the properties to be acquired. The company is not in a position to definitely inform the commission for what purposes it desires to expend the proceeds of the remaining \$1,000.00 of bonds. The expenditure of these proceeds may be covered by a supplemental order in this proceeding.

#### ORDER.

Imperial Valley Farm Lands Association, Carl F. Schader and Arthur E. Hull having applied to the Railroad Commission for authority to sell and transfer the public utility water properties, described in "Exhibit I" attached hereto, to Imperial Utilities Corporation, and Imperial Utilities Corporation having applied to the Railroad Commission for an order declaring that public convenience and necessity require it to exercise certain franchise rights and for authority to execute a mortgage and issue \$10,000.00 of bonds face value at par.

And a public hearing having been held and the Railroad Commission being of the opinion that the money, property, or labor to be procured or paid for by such issue is reasonably required for the purpose or purposes specified in the order, and that the expenditures for said purpose or purposes are not in whole or in part reasonably chargeable to operating expenses or to income,

*It is hereby ordered* that Imperial Valley Farm Lands Association, Carl F. Schader and Arthur E. Hull be and they are hereby granted authority to sell and transfer to Imperial Utilities Corporation the properties described in Exhibit "I" attached hereto.

*It is hereby further ordered* that Imperial Utilities Corporation be, and it is hereby granted authority to execute a mortgage in substantially the same form as the mortgage filed with the Railroad Commission in this proceeding and marked Exhibit "D."

*It is hereby further ordered* that Imperial Utilities Corporation be and it is hereby granted authority to issue \$10,000.00 of its "Series A" ten-year 6 per cent bonds.

The authority herein granted is granted upon the following conditions and not otherwise:

1. Of the bonds herein authorized to be issued \$9,000.00 shall be issued at their face value in payment for the properties herein authorized to be sold and transferred pursuant to the terms of Exhibit "C" attached to the application herein; the remaining \$1,000.00 of bonds



shall be issued under such conditions and for such purposes as the commission may indicate in a supplemental order.

2. Within thirty days after the transfer of the properties Imperial Utilities Corporation shall file with the Railroad Commission a certified copy of the instrument of conveyance under which it holds title to the properties herein authorized to be transferred and acquired.

3. The price at which the properties are herein authorized to be sold and transferred shall not be considered as a measure of value of said properties before the Railroad Commission, or any other public body, for rate-fixing or any other purpose other than this proceeding.

4. The authority herein granted to transfer properties shall not be interpreted directly or indirectly as a finding of value for the water stock of Imperial Water Company No. 3.

5. The approval herein given of said mortgage is for the purpose of this proceeding only and an approval in so far as this commission has jurisdiction under the terms of the Public Utilities Act and is not intended as an approval of said mortgage as to such other legal requirements to which said mortgage may be subject.

6. Within sixty days from the date hereof, Imperial Utilities corporation shall file with the commission the necessary data, showing that it has a valid franchise to construct and operate a water plant at Niland.

7. Imperial Utilities Corporation shall keep separate, true and accurate accounts showing the receipt and application in detail of the proceeds of the sale of the bonds herein authorized to be issued; and on or before the twenty-fifth day of each month the company shall make verified reports to the commission stating the sale or sales of said bonds during the preceding month, the terms and conditions of the sale, the moneys realized therefrom, and the use and application of such moneys, all in accordance with this commission's General Order No. 24, which order, in so far as applicable, is made a part of this order.

8. The authority herein granted is conditioned upon the payment by petitioner of the fee prescribed in the Public Utilities Act.

9. The authority herein granted to transfer public utility properties and to issue bonds shall apply only to such transfer of properties and to such bonds as may be issued on or before April 1, 1918.

Dated at San Francisco, California, this twenty-sixth day of December, 1917.

## EXHIBIT No. "1."

In Exhibit "C" attached to the petition herein, the properties to be sold and transferred are described as follows:

(a) The Calipatria Water Works, water plant and system located upon and adjacent to the townsite of Calipatria, Imperial County, California, upon and adjacent to Sections Fifteen (15) and Sixteen (16) in Township Twelve (12) South, Range Fourteen (14) East, together with all machinery, pipe lines, ditches, flumes, conduits, reservoirs, settling basins, pipes, equipment, fixtures, tools and materials of every kind and character, naturally and properly belonging to said water works and water plant and system; including also all rights of way, easements and franchise rights in and upon the streets, alleys, highways and other public ways of the said town of Calipatria and lands adjacent thereto for the use of, maintenance and extension of said water works, water plant and system for the purpose of conveying, distributing, selling and delivering water to the consumers and customers and purchasers of water within and upon said townsite of Calipatria and lands adjacent thereto. It being understood and agreed that the franchise rights relating to said water pipes and water mains are restricted to the alleys and their intersections with streets in the said townsite of Calipatria, except that the right of way and franchise for the main central water main or water pipes may be laid and maintained in Holabird avenue, in accordance with the rights and reservations expressed upon the townsite map of Calipatria, being Map Number 156, recorded in Book 2 at pages 89, 90 and 91 of Maps in the office of the County Recorder of Imperial County, California.

(b) The Niland Water Works, water plant and system located upon and adjacent to the townsite of Niland, Imperial County, California, upon and adjacent to Sections Three (3), Four (4), Nine (9) and Ten (10) in Township Eleven (11) South, Range Fourteen (14) East, together with all machinery, pipe lines, ditches, flumes, conduits, reservoirs, settling basins, pipes, equipment, fixtures, tools and materials of every kind and character, naturally and properly belonging to said water works and water plant and system; including also all rights of way, easements and franchise rights in and upon the streets, alleys, highways and other public ways of the said town of Niland, and lands adjacent thereto for the use of, maintenance and extension of said water works, water plant and system for the purpose of conveying, distributing, selling and delivering water to the consumers and customers and purchasers of water within and upon said townsite of Niland and lands adjacent thereto.

(c) Six (6) acres of land located in the Southwest corner of what is known and described as Tract Number Sixteen (16) of the Calipatria townsite, upon which is located the present water plant of the Calipatria Water Works, the Southwest corner of said Six (6) acre parcel of ground being the intersection of the south line of Section Sixteen (16), Township Twelve (12) South, Range Fourteen (14) East, with the east side line of Holabird Avenue, said six acres of land being located in the Southwest corner of the Southeast Quarter of the Southeast Quarter of said Section Sixteen (16), and more particularly described in the deed of conveyance to be executed and delivered by the Seller to the Buyer.

(d) An easement and right to occupy and use approximately two (2) acres of land upon which the Niland pumping plant and settling basins are located for so long a period as the Buyer continues to use and occupy the same as the location of the pumping plant for the Niland Water Works System, and thereafter the said easement and right shall cease and the property shall return to the possession of the Seller, said two (2) acres of land being more particularly described in the instrument of transfer and sale relating to said Niland Water plant and water system, to be executed and delivered by the Seller to the Buyer.

(e) Fifteen (15) acres of land located in the Southwest Quarter of the Southwest Quarter of Section Thirty-five (35), Township Ten (10) South, Range Fourteen (14) East, below the east high line main canal of the Imperial Valley Water Irrigation System. It is understood and agreed that the Seller is to give to the Buyer a contract of purchase covering said fifteen (15) acres of land, providing for

the delivery of a good and sufficient deed thereto to the Buyer upon payment of the sum of Eighteen (\$18.00) per acre, with interest at the rate of six per cent (6%) per annum from the date of said contract of purchase to the date of payment of the full purchase price. The Seller is to obtain a deed for said land from the Southern Pacific Land Company within five years from and after the date hereof, and until such deed is obtained and good title is conveyed to the Buyer, the Seller shall pay all taxes and charges of any kind levied or imposed against or upon said land, and also all taxes and charges of any kind levied or imposed against or upon the properties described in parcels (a), (b), (c) and (d) up to July 1, 1917. Said Fifteen (15) acres of land shall be accurately surveyed, the boundaries thereof determined, and a correct description of same given by the Buyer to the Seller on or before the 1st day of July, 1917, and reference is made to said survey for a correct description of said property.

(f) Five Hundred (500) shares of full paid capital stock of the Imperial Water Company Number 3 for which the Buyer agrees to pay the price of Fifteen (\$15.00) Dollars per share. Certificates representing said shares of stock, duly endorsed for transfer, shall be placed in escrow with the First National Bank of Los Angeles, California, providing for the delivery thereof to the Buyer under the terms of this agreement. The Buyer shall have the privilege of receiving and paying for said shares of stock in blocks of not less than fifty (50) shares at any time. The entire five hundred (500) shares of stock shall be paid for and delivered on or before five (5) years from and after the date hereof. The Buyer shall pay all assessments levied against said shares of stock from and after the time when same is so placed in escrow, notice of any assessments being promptly given by the Seller to the Buyer. It is understood and agreed that the ownership of said shares of stock carries with it four (4) acre feet of water per annum for each share thereof; and from the time the Buyer takes possession of the water plants and works herein described, henceforth and thereafter, the Buyer shall have full and complete use of all water following or relating to the ownership of said shares of stock without regard to the time or terms of payment therefor.

(g) Such rights of way and franchise rights as the Imperial Utilities Corporation may require across and upon any lands of the Seller, located in Imperial Water District Number 3, for the construction or extension of its pipe lines and conduits and other improvements in carrying on its business in and adjacent to the aforesaid towns of Calipatria and Niland, under its then control.

The considerations to be paid by the Buyer to the Seller for the fifteen (15) acres of land described as Parcel (e), and the five hundred (500) shares of capital stock of Imperial Water Company Number 3, described as Parcel (f) of Subdivision "First" of this agreement, have been already herein expressed. The further consideration to be paid by the Buyer to the Seller for all the additional property and property rights expressed and set forth in said Subdivision "First" shall be Nine Thousand (\$9,000.00) Dollars face value of said Series "A" bonds, same to be issued and delivered by the Buyer to the Seller as soon as the issuance and delivery of said bonds is authorized and approved by the Railroad Commission of the State of California.

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#### DECISION No. 4986.

IN THE MATTER OF THE APPLICATION OF CALISTOGA ELECTRIC  
COMPANY FOR AUTHORITY TO INCREASE RATES.

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Application No. 2997.

*Decided December 26, 1917.*

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A petition for rehearing filed by an educational institution affected by an increase in rates of applicant heretofore authorized by the commission: Applicant having

voluntarily offered to serve petitioner at a more favorable rate than that established by the commission, which action it is permitted to do under a prior ruling of the commission permitting utilities to grant free or reduced rates to institutions of learning, petition dismissed.

BY THE COMMISSION.

**OPINION ON PETITION FOR REHEARING.**

The Pacific Union College Association is a consumer of electric energy from Calistoga Electric Company, whose rates for electric service were established herein by Decision No. 4935, made on December 6, 1917. The rates thus established increase the rate heretofore paid by the association. A petition for rehearing has been filed by the association.

Petitioner alleges in effect that it is a corporation organized under Division I, Part IV, Title XVII of the Civil Code of the state of California, referring to colleges and seminaries of learning, and is not incorporated for pecuniary profit. Petitioner urges that it has a written agreement with Calistoga Electric Company wherein said company agreed to furnish electricity to petitioner for a period of ten years from and after May 28, 1914, at the rate of 3 cents per kilowatt hour for all electric energy used, and asks that this rate be continued in effect.

Calistoga Electric Company has filed its revised rates, rules and regulations in accordance with the order of the commission heretofore issued in this proceeding.

Calistoga Electric Company has voluntarily offered to file and charge a rate of 3 cents per kilowatt hour for all energy consumed by Pacific Union College Association and any other institution of the same class receiving service under similar conditions at primary voltage. This voluntary offer was made under the authority granted in Decision No. 421, Case 293, Volume 2, Opinions and Orders of the Railroad Commission of the State of California, pages 73 and 87, wherein permission is granted to public utilities other than common carriers to grant free or reduced rates for service to charitable institutions and in a number of other cases. This offer of Calistoga Electric Company grants to petitioner the relief requested in the petition for rehearing.

The petition for rehearing should be dismissed.

**ORDER ON PETITION FOR REHEARING.**

Pacific Union College Association having filed a petition for rehearing in the above-entitled proceeding, careful consideration having been given to said petition, and no good reason appearing why said petition should be granted,

*It is hereby ordered* that said petition for rehearing herein be and the same is hereby dismissed.

Dated at San Francisco, California, this twenty-sixth day of December, 1917.

## DECISION No. 4987.

IN THE MATTER OF THE APPLICATION OF VALLEY NATURAL GAS COMPANY FOR AUTHORITY TO ISSUE SHARES OF ITS COMMON STOCK.

Application No. 3339.

*Decided December 26, 1917.*

- A utility distributing natural gas, whose plant would be rendered practically valueless should the supply of gas fail, is required to set aside an adequate depreciation fund, not so much for the purpose of replacing worn-out property as to keep the investment intact. Such fund should not be capitalized.
- In connection with a petition of a natural gas distributing company for permission to issue stock covering earnings expended to redeem bonds and for additions and betterments, the commission will look, not so much to the amount of earnings expended for such purposes, as to the ability of the applicant to earn a sufficient amount to pay dividends on its outstanding stock.
- Portions of the amounts expended by applicant for the purpose of redeeming bonds and for additions and betterments having been obtained from its depreciation fund, which fund the commission holds should not be capitalized, irrespective of the purpose for which the moneys therein were used. Applicant authorized to issue \$37,000.00 par value of stock only, to be issued at par for the purpose of reimbursing its treasury covering capital expenditures made.

*Lilienthal, McKinstry & Raymond, by Joseph Haber, Jr., for Applicant.*

*THELEN, Commissioner.*

## OPINION.

In its petition herein, Valley Natural Gas Company asks authority to issue such an amount of its common stock as the Railroad Commission may deem proper, for the purpose of capitalizing earnings expended for additions and betterments and the redemption of bonds. Petitioner proposes to distribute as a stock dividend to the holders of its common stock such stock as may be authorized herein.

Petitioner alleges that it and its predecessor in interest, California Natural Gas Company, have expended for additions and betterments the following amounts:

December 1, 1915, to March 1, 1916.....	\$25,872 88
March 1, 1916, to July 1, 1916 (credit).....	3,028 05
July 1, 1916, to March 1, 1917.....	30,171 84
March 1, 1917, to November 1, 1917.....	24,796 01
Total .....	\$76,812 68

Petitioner also alleges that from June 30, 1917, to November 1, 1917, inclusive, it has used earnings to redeem bonds in the amount of \$60,000.00. As I view the situation, the question before the commission is not so much the amount of earnings expended for additions and

betterments and the redemption of bonds as the amount of earnings properly available for the payment of dividends on petitioner's common stock. The testimony indicates that the earnings available for this purpose have been expended for additions and betterments or for the redemption of bonds. Dividends on petitioner's preferred stock have been regularly paid.

The testimony shows that Valley Natural Gas Company acquired the properties of California Natural Gas Company on or about June 20, 1916, and that the cash paid for the properties as of June 20, 1916, included the additions and betterments from December 1, 1915, to June 20, 1916.

Mr. J. F. McMahon, general manager of Valley Natural Gas Company, testified that during 1916 no allowance was made for depreciation, except for automobiles, but that during the current year it is the intention of the officials of the company to appropriate from \$50,000.00 to \$60,000.00 of the earnings for depreciation. In readjusting the rates of Valley Natural Gas Company, the Railroad Commission in Decision No. 4485, dated July 27, 1917, allowed \$43,334.64 per annum for depreciation.

Petitioner is engaged in the distribution of natural gas, a business of considerable hazard because of the uncertain life of the field. Mr. McMahon testified that in his opinion if the natural gas supply ceases the property of petitioner will become entirely useless and that any value which it will have will be its salvage value.

Because of the fact that this property is viewed as having a short term life, the function of the depreciation reserve seems to me, in this case, to be not so much to replace the property as worn out and thus to keep the investment intact, as to restore the investment to the investors. In restoring the investment, the company's obligation naturally goes first to its creditors, and second to its stockholders.

For the purpose of determining the amount of net earnings available for the payment of dividends on common stock, I am inclined to the view that the company should set up for depreciation the amount allowed by the commission in the recent rate proceeding and that the amount so allowed per annum should not only be applied to the 1917 but also to the 1916 operations.

No matter for what purpose the depreciation fund has been or will be used, I am of the opinion that it should not be capitalized. Counsel for petitioner agrees with me in this conclusion.

A statement submitted by petitioner shows the following results from the operation of the properties here involved.

Item	January 1, 1916, to December 31, 1916	January 1, 1917, to October 31, 1917
Operating revenues -----	\$368,739 58	\$476,442 98
Operating expenses, including taxes but not depreciation -----	271,519 32	406,335 47
Net operating revenues -----	\$97,220 26	\$70,107 51
Less interest -----	11,810 36	16,599 84
Net earnings -----	\$85,409 90	\$53,507 67
From which should be deducted depreciation and dividend on preferred stock—		
Depreciation -----	\$43,334 64	\$36,112 22
Dividend on preferred stock -----	10,002 00	11,002 00
Total -----	\$53,336 64	\$47,114 22
Net earnings available for dividends on common stock	\$32,073 26	\$6,393 45

The foregoing table indicates that the company has available for the payment of dividends on its common stock the sum of \$38,466.71 less the sum of \$1,278.00, being one month's dividend on preferred stock.

The testimony is to the effect that this amount as well as amounts which more properly should have been charged to depreciation have been expended for additions and betterments and the redemption of bonds. As said, I do not believe that any amount expended out of the depreciation fund should be capitalized regardless as to whether the moneys in the depreciation fund have been used to redeem bonds or expended for additions and betterments or replacements.

Under petitioner's articles of incorporation, any stock which the commission may authorize to be issued pursuant to the petition herein must be delivered to the common stockholders. Mr. C. C. Spicer, secretary of Valley Natural Gas Company, testified that the common stockholders have agreed with all parties who were in any way interested in the organization and financing of the Valley Natural Gas Company that they would distribute any stock herein authorized as follows:

- 50 per cent to the Standard Bond and Mortgage Company.
- 23 per cent to Mr. C. B. Colby and his associates.
- 23 per cent to Messrs. C. C. Spicer, Charles Donlon, J. A. Hughes and A. S. Bradford.
- 4 per cent to Mr. T. F. Speed.

All parties agree that this distribution shall be regarded as compensation in full for all services rendered in financing the purchase of the properties of California Natural Gas Company.

In view of the facts presented in connection with this petition I am of the opinion that Valley Natural Gas Company may properly be authorized to issue \$37,000.00 par value of its common capital stock for the purpose of reimbursing its treasury for earnings expended for additions and betterments.

I herewith submit the following form of order:

**ORDER.**

Valley Natural Gas Company having applied to the Railroad Commission for authority to issue common capital stock in such an amount as the commission may determine, and a public hearing having been held, and the Railroad Commission being of the opinion that the money, property or labor to be procured or paid for by such issue is reasonably required for the purpose or purposes specified in the order and that the expenditures for such purpose or purposes are not in whole or in part reasonably chargeable to operating expenses or to income,

*It is hereby ordered* that Valley Natural Gas Company be and it is hereby authorized to issue \$37,000.00 par value of its common capital stock for the purpose of reimbursing its treasury because of earnings expended for capital purposes, the authority herein granted to issue said stock being upon the following conditions and not otherwise:

1. Valley Natural Gas Company shall keep separate, true and accurate accounts showing the receipt and application in detail of the proceeds of the sale of the stock herein authorized to be issued; and on or before the twenty-fifth day of each month the company shall make verified reports to the Railroad Commission stating the sale or sales of said stock during the preceding month, the terms and conditions of the sale, the moneys realized therefrom, and the use and application of such moneys, all in accordance with this commission's General Order No. 24, which order, in so far as applicable, is made a part of this order.

2. The authority herein granted to issue stock shall apply only to such stock as shall have been issued on or before May 15, 1918.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the state of California.

Dated at San Francisco, California, this twenty-sixth day of December, 1917.



## DECISION No. 4988.

LOUIS GALLI

VS.

ROSEVILLE WATER COMPANY.

Case No. 1164.

*Decided December 26, 1917.*

It is not considered discriminatory for a utility delivering water on a flat rate basis to install a meter and charge measured rates to a consumer which it suspects of wasting water. Investigation showing that complainant had permitted the wasting of water for a considerable period of time, action of defendant in installing a meter and charging meter rates held reasonable and complaint dismissed.

*J. B. Gibson, for Complainant.*

*Meredith, Landis & Chester, by J. D. Meredith, for Defendant.*

BY THE COMMISSION.

**OPINION.**

In this complaint it is alleged in effect that previous to July 7, 1917, water was furnished by defendant to complainant, a hotel proprietor, at a flat rate of \$5.50 per month; that about July 7, 1917, a meter was installed at his premises without notification or warning; that no bills were presented from July 1 until November 1 and that the bill when presented was three and a half times that of previous bills for equal periods. Objection is made to the installation of the meter on the ground of discrimination in that none of the other hotels have their water supply metered, and complainant asks that he be restored to the former flat rate and that the defendant be compelled to accept payment for the time the meter has been in use, at the flat rate formerly in force.

The defendant in its answer states that previous to the installation of the meter the complainant wasted large quantities of water, chiefly from the overflowing of a water trough in front of his premises and through defective connections in the pipe leading to this trough; that the complainant was notified on various occasions of this leaking, and warned that unless the existing conditions be remedied a meter would be installed. As no attention was paid to these warnings, on or about July 7 the meter was installed. The defendant further alleges that on the first of each month from July 1 to November 1 a notification that his water rent was due was sent complainant.

A public hearing was held before Examiner Westover at Roseville on December 7, 1917, and the evidence submitted was very conflicting.

The complainant testified that there was no leak in the pipe in question; that there was no water wasting at the trough except at infre-

quent intervals when someone using the trough neglected to turn off the faucet; that no complaint in regard to the alleged wastage was made to him by the defendant; that he had received no notification of the proposed change from flat rate to meter rate, and the only notice he received was when he saw the meter being installed; that from the time the meter was installed until November 1 he received no bill or notice that bill was due; and that November 1 he received a bill for July, August, September and October for \$73.40 which is far in excess of the old flat rate.

Mr. W. G. Hemphill, manager for the defendant, testified that during the past summer he frequently noticed the wastage; that he called it to the attention of the complainant and warned him that unless the conditions were remedied a meter would be installed; that no attention was paid to his warning, so on July 7 the meter was installed.

C. A. McRae, collector for the defendant, testified that he had seen the water wasting and that early in August he saw the complainant and informed him that his July bill under the meter amounted to about \$15.00 and suggested payment, and that the first of each month he mailed to complainant the regular monthly notice stating that the monthly water rental was due.

During the early part of November the pipe leading to the trough was replaced by a smaller pipe and the faucet changed to a key socket, the key being kept in the hotel. The water bill for the month of November under the meter rate was \$7.65 and for October \$18.00, showing that water can be conserved by proper attention to fixtures.

An examination of the premises by representatives of the commission disclosed conditions indicating that water had wasted for a considerable period from the trough to the sewer manhole.

The rates of the defendant were established by the board of trustees of the city of Roseville and later reduced by the company. When both flat rates and meter rates are established, the average effect of the one is theoretically the equivalent of the other, so that changing from one to the other in any instance is not in itself discrimination.

#### ORDER.

A public hearing having been held in the above-entitled proceeding and the matter having been submitted and being now ready for decision,

*It is hereby ordered* by the Railroad Commission of the state of California that the complaint be and it is hereby dismissed.

Dated at San Francisco, California, this twenty-sixth day of December, 1917.

## DECISION No. 4989.

IN THE MATTER OF THE APPLICATION OF PUENTE CITY WATER COMPANY, A CORPORATION, FOR AN ORDER AUTHORIZING IT TO ISSUE A PROMISSORY NOTE, TO MORTGAGE ITS PROPERTY, AND TO ISSUE STOCK IN THE AMOUNT OF SIX HUNDRED DOLLARS.

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Application No. 3375.

*Decided December 26, 1917.*

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Applicant authorized to execute a mortgage and to issue thereunder a five-year note in the sum of \$7,000.00, the proceeds thereof to discharge three outstanding notes totaling \$6,800.00, the balance for improvements to plant, also to issue \$600.00 par value of stock for the purposes of discharging a like face value of notes.

*Thomas C. Ridgway*, for Applicant.

BY THE COMMISSION.

**OPINION.**

Puente City Water Company seeks authority to issue its note for \$7,000.00, more fully described in the order, to execute its mortgage to secure the payment thereof and to issue twelve shares of its capital stock at the par value of \$50.00 per share using the proceeds to pay two notes for \$500.00 and \$100.00, respectively, bearing interest at 7 per cent per annum. Of the proceeds of the new note it wishes to use \$6,800.00 to pay notes aggregating that amount, more fully described in the order, and use \$200.00 for purposes of maintenance and operation.

A public hearing was held by Examiner Westover in Los Angeles on December 17.

The testimony shows that the proceeds of all of the notes aggregating \$7,400.00 now outstanding, were used for installing plant and making extensions and improvements, all chargeable to capital account. All of the present notes bear 7 per cent interest. The interest charge would not be increased by the proposed refunding. The \$200.00 difference between the \$7,000.00 new note issued at par and the \$6,800.00 principal of notes to be refunded from the proceeds applicant wishes to use to pay certain repair bills which are apparently chargeable to maintenance and operation, with the exception of an item of \$46.00 for a kick-off switch which is properly chargeable to capital account. Applicant anticipates that it will soon need more meters and that the remainder of the \$200.00 referred to can very properly be applied to their purchase, this being a proper capital charge.

Applicant reports a steady increase in the number of services and in water sales. The new rates authorized by Decision No. 4520 of August

7, 1917, did not go into effect until December 1, 1917, so that their effect could not be shown.

The form of mortgage submitted contains a clause providing that the mortgage will secure also any future advances in addition to the \$7,000.00 now being loaned to applicant. It is agreed, however, that applicant will not issue additional notes to be secured by this mortgage and become liens upon its property without the previous authority of the commission.

#### ORDER.

Puente City Water Company having applied to the Railroad Commission for authority to issue a note, execute mortgage, issue stock and retire certain notes, all as described in the order, public hearing having been held, and the commission being of the opinion that the money to be procured by such issue of note and stock is reasonably required for the purposes specified in the order, which purposes are not in whole or in part reasonably chargeable to operating expenses or to income,

*It is hereby ordered* that the Puente City Water Company be and it is hereby authorized and empowered to issue its note for \$7,000.00 in favor of Mutual Building and Loan Association of Pomona, a corporation, payable five years after date thereof with interest at 7 per cent per annum payable monthly and to execute mortgage securing the payment thereof in form attached to the application, marked Exhibit "C"; and also to issue twelve shares of its common capital stock of the par value of \$50.00 per share at par to the following persons:

To L. Dedier, 10 shares.....	\$500 00
To J. Fenero, 2 shares.....	100 00

The proceeds of said note for \$7,000.00 shall be applied as follows:

\$6,800.00 to pay the following one-day notes dated and in favor of—

February 12, 1916—First National Bank of Covina, 7%.....	\$3,000 00
March 30, 1916—First National Bank of Puente, 7%.....	3,500 00
December 31, 1916—E. Rambaud, 7%.....	300 00

Total notes refunded.....	\$6,800 00
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For extension, betterments or improvements to the system as follows:

For kick-off switch at the pumping plant.....	46 00
For capital purposes to be hereafter approved by the commission by supplemental order.....	154 00

Total .....	\$7,000 00
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The proceeds of said stock issue shall be used to pay one-day notes dated as follows, and in favor of the following persons:

April 30, 1915—L. Dedier, 7%.....	\$500 00
July 31, 1916—J. Fenero, 7%.....	100 00

Total .....	\$600 00
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This order is made upon the following conditions:

1. No further notes, the payment of which is intended to be secured by the said mortgage herein authorized to be executed, shall be issued without the previous authority of the commission.

2. The stock and notes herein authorized to be issued shall be issued at par without discount and without payment of commission.

3. The authority herein contained extends only to such note and stock as shall be issued and to such mortgage as shall be executed within sixty (60) days after date hereof.

4. On or before the twenty-fifth day of each month Puente City Water Company shall make verified report in writing, in such form and detail as is required by General Order No. 24, of the note and stock issued hereunder and the disposition of the proceeds thereof, which said General Order No. 24, in so far as applicable is made part of this order.

5. Within thirty (30) days after execution thereof applicant shall file with the commission a copy of said note and mortgage in form in which same are finally executed.

6. The approval of said mortgage is for the purpose of this proceeding only and an approval only in so far as this commission has jurisdiction under the terms of the Public Utilities Act, and is not intended as an approval of said mortgage as to any other legal requirements to which said mortgage may be subject.

7. The authority herein granted to incur indebtedness shall not become effective until the fee prescribed in the Public Utilities Act has been paid.

Dated at San Francisco, California, this twenty-sixth day of December, 1917.

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DECISION NO. 4990.

ORRIE HANSEL

's.

W. B. REINEY AND MARY REINEY.

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Case No. 1151.

*Decided December 26, 1917.*

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Individuals operating a pumping plant and delivering water regularly to others at a fixed rate are public utilities irrespective of the limited number of the consumers served, and they can not through personal feelings discontinue service to a consumer entitled thereto.

A utility, operating under exceptional conditions which has never assumed the obligation of delivering water to the property line of any of its consumers will not be required so to do. Complainant directed to arrange for service through

the existing pipe of another consumer or to construct his own pipe to the nearest point of connection with line of defendant and defendant directed to supply him with water at regular established rates.

*Newton Rutherford and Joseph B. Malloy, for Complainant.*  
*Stuckenbruck & West, for Defendants.*

BY THE COMMISSION.

OPINION.

Plaintiff alleges that defendants are engaged in distributing water for domestic use in Clements, San Joaquin County, at a flat rate of \$1.50 per month; that plaintiff is a consumer of water from defendants' system; that defendants formerly charged him the usual rate of \$1.50 per month, but after personal difficulty with defendant, W. B. Reiney, complainant's water was cut off and a rate of \$5.00 per month was demanded before it would be turned on again.

The answer alleges that the lot and well used by defendants are owned by defendant Mary Reiney, the 2½-horsepower engine and pump are owned by defendant W. B. Reiney, and the 10,000 gallon tank, and the lot on which it stands (located a few hundred feet away from the pump and well), are owned by Clements Estate; that these improvements were erected about 15 years ago under an oral agreement between said parties to the effect that defendants were to pump and furnish water with the aid of said engine and pump for the joint private use of said Clements Estate and of defendants in their hotel; that in addition to said parties some eight or nine other families have during the last three years been using water from said tank and well with the consent of defendant W. B. Reiney, through pipes installed and owned by said water users; that the authorized use is for domestic purposes only; that said W. B. Reiney has been and is now collecting \$1.50 per month for water served to each of said consumers; that the water supply is very limited and not sufficient for irrigating vegetable gardens or watering stock except to a very limited extent; that complainant's water pipe connects with the private pipe owned by one Gaskell; that the point of said connection is upon the premises of said Gaskell, and that said Gaskell cut off complainant's supply because of his alleged excessive use. Defendants also allege that they are not operating a public utility within the meaning of the Public Utilities Act.

A public hearing was held by Examiner Westover at Clements on November 13, 1917.

From the testimony it appears that the pipe supplying Mr. Gaskell connects with the pipe of defendant Reiney, at a point on the lot of Mrs. Reiney, about five feet from the street line. The Gaskell pipe was laid under the street pursuant to authority obtained from the

supervisors of the county. Complainant's pipe is laid in a public street and alley, and connects with the Gaskell pipe in the street. This connection was made with the defendant Reiney's approval, given with the proviso that Gaskell would cut off complainant's water supply when so ordered by defendant Reiney. The supply was cut off by Gaskell upon the order of defendant Reiney.

At the time of the hearing Gaskell testified that he would not again permit the service of water through his pipe under any consideration. The actions of defendant Reiney and of Gaskell have been influenced largely by personal considerations which it is not necessary to refer to here and which can not be given weight in dealings between public utilities and their patrons. The question of whether or not complainant did in fact waste water was not gone into at the hearing. The other facts are sufficiently shown by the pleadings.

The evidence shows that defendant W. B. Reiney has sold water to the public and collected regular rates for some time past. Defendants, therefore, operate a public utility within the meaning of section 2 (bb) of the Public Utilities Act.

Defendants operate under exceptional conditions and have not assumed the obligation of delivering water to the property line of the premises served but only to the pipes owned and laid by their respective patrons. There is nothing to indicate that any of these pipes have been donated to the system or otherwise acquired by defendants. Complainant is entitled to service at the usual rate without discrimination. If, for any reason, personal or otherwise, he can not procure service through the private pipes owned by Mr. Gaskell he may provide his own pipe and is entitled to a connection with defendant Reiney's pipes at the nearest point and to receive service on a parity with all others. Regulation of complainant's water use by defendants can be provided for by establishing suitable rules and regulations which must be regularly accepted by and filed with this commission.

#### ORDER.

A public hearing having been held in the above-entitled case, evidence having been submitted and the matter being now ready for decision,

*It is hereby ordered* that defendants serve water to complainant in a manner similar to that under which others receive service and accept payment at the regular rates established by defendants for such service without discrimination.

Such service to complainant is to be resumed immediately when complainant has provided means for carrying water to his premises.

Dated at San Francisco, California, this twenty-sixth day of December, 1917.

## DECISION No. 4991.

IN THE MATTER OF THE APPLICATION OF A. I. ENGLISH, KARL KAHRAU AND ANDREW ANDREASEN FOR CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY TO OPERATE STAGE LINE BETWEEN REDWOOD CITY AND MILITARY CAMP NEAR MENLO PARK.

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Application No. 3379.

*Decided December 28, 1917.*

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BY THE COMMISSION.

**ORDER.**

A. I. English, Karl Kahrau and Andrew Andreasen having applied to the Railroad Commission for a certificate declaring that public convenience and necessity require the operation by them of an automobile service as a common carrier of passengers between Camp Fremont, Menlo Park and Redwood City, and the commission being duly advised and believing that this is not a case in which a public hearing is necessary and that the application should be granted, the Railroad Commission of the state of California hereby declares that public convenience and necessity require the operation by the said A. I. English, Karl Kahrau and Andrew Andreasen of an automobile stage service as a common carrier of passengers between Camp Fremont, Menlo Park and Redwood City, applicants having filed certified copies of permits from the city of Redwood City and the county of San Mateo as required by section 3 of chapter 213, laws of 1917; provided, the rights and privileges herein granted shall not be assigned or transferred unless the written consent of the Railroad Commission to such assignment or transfer has first been secured; and

*It is hereby ordered* that no vehicle may be operated under this certificate unless such vehicle is owned by the applicants herein or is leased by such applicants under a contract or agreement on a basis satisfactory to the Railroad Commission.

Dated at San Francisco, California, this twenty-eighth day of December, 1917.



## DECISION No. 4992.

IN THE MATTER OF THE APPLICATION OF WM. F. WHITCOMB FOR  
CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY TO  
OPERATE AUTOMOBILE STAGE SERVICE BETWEEN WILMAR AND  
FIRST AND ROWAN STREETS, BELVEDERE, LOS ANGELES  
COUNTY.

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Application No. 3293.

*Decided December 28, 1917.*

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BY THE COMMISSION.

**ORDER.**

Wm. F. Whitecomb having applied for a certificate declaring that public convenience and necessity require the operation of an automobile stage service as a common carrier of passengers between Wilmar and First and Rowan streets, Belvedere, in Los Angeles County, and having filed with the Railroad Commission certified copies of permits issued by the board of supervisors of the county of Los Angeles as required by section 3 of chapter 213, laws of 1917, and the commission being duly advised and believing that this is not a case in which a public hearing is necessary and that the application should be granted,

*It is hereby declared* that public convenience and necessity require the operation by Wm. F. Whitecomb of an automobile stage line for the transportation of passengers between Wilmar and First and Rowan streets, Belvedere, in the county of Los Angeles; provided, that the rights and privileges herein granted shall not be assigned or transferred unless the written consent of the Railroad Commission to such assignment or transfer has first been secured; and provided, further, that no vehicle may be operated under this certificate unless such vehicle is owned by the applicant herein or is leased by such applicant under a contract or agreement on a basis satisfactory to the Railroad Commission.

Dated at San Francisco, California, this twenty-eighth day of December, 1917.

## DECISION No. 4993.

IN THE MATTER OF THE APPLICATION OF SOUTHERN COUNTIES GAS COMPANY OF CALIFORNIA FOR AN ORDER AUTHORIZING THE ISSUANCE OF DEBENTURES AND THE EXECUTION OF AN AGREEMENT SECURING THE SAME.

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Application No. 3340.

*Decided December 28, 1917.*

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BY THE COMMISSION.

**SECOND SUPPLEMENTAL ORDER.**

Whereas the Railroad Commission by Decision No. 4918, dated December 4, 1917, authorized applicant in the above-entitled matter to execute an agreement under the terms of which it was permitted to issue \$400,000.00, face value, of ten-year 6 per cent debentures; and

Whereas applicant has now decided to issue, pursuant to Decision No. 4918, as amended, \$400,000.00 face value of two-year 6 per cent gold notes, in lieu of the \$400,000.00 face value of ten-year 6 per cent debentures, and has submitted to the commission for approval a copy of an agreement under the terms of which it proposes to issue said \$400,000.00 of two-year 6 per cent notes, said agreement having been marked "Exhibit No. 2" for the purpose of identification, and good cause appearing,

*It is hereby ordered* that Southern Counties Gas Company of California be and the same is hereby authorized to execute an agreement providing for the issue of \$400,000.00 face value of two-year 6 per cent notes, said agreement to be substantially in the same form as the agreement filed with the commission in the above-entitled matter and marked "Exhibit No. 2."

*It is hereby further ordered* that the order in Decision 4918, dated December 4, 1917, as amended, shall remain in full force and effect, except as modified by this second supplemental order.

Dated at San Francisco, California, this twenty-eighth day of December, 1917.

## DECISION No. 4994.

IN THE MATTER OF THE APPLICATION OF THE PEOPLE OF THE STATE OF CALIFORNIA, ON THE RELATION OF THE DEPARTMENT OF ENGINEERING, FOR AN ORDER AUTHORIZING THE CONSTRUCTION OF A STATE HIGHWAY GRADE CROSSING OVER THE TRACKS OF THE SOUTHERN PACIFIC COMPANY AT VALLEY SPRINGS, CALAVERAS COUNTY, CALIFORNIA.

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Application No. 3216.

*Decided December 28, 1917.*

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Applicant granted permission to construct a road crossing at grade across the tracks of Southern Pacific Company at Valley Springs, it appearing that there is very little train movement at such point and that the proposed crossing will be open to view and never particularly dangerous.

*C. C. Carleton*, for Applicant.

*George D. Squires*, for Southern Pacific Company.

*C. P. Snyder*, for Calaveras County.

BY THE COMMISSION.

## OPINION.

The crossing which the State Highway Commission desires to secure in this application is located on the Valley Springs branch of the Southern Pacific Company at a point some 600 feet beyond the Valley Springs Station. The railroad company refused to grant an easement, so the application was set for a hearing which was held before Examiner Encell at Valley Springs on December 12.

The State Highway Commission is constructing a road between Valley Springs and San Andreas, which is some 1,945 feet shorter than the existing county highways between the same points. The present county highway crosses the railroad at Valley Springs about half way between the station and the proposed state highway crossing, but as the state highway will lead in a southeasterly direction from the tracks and the present county road serves a territory southwest of the existing crossing, as well as that which will be reached by the new state highway, the existing crossing can not be closed without inconvenience.

It would be possible for the State Highway Commission to use the existing crossing but to do so it would be necessary for it to purchase additional right of way and construct two sharp turns in the highway. The track to be crossed is nearly at the extreme end of a branch line over which but one regular train passes each way per day and the only train movements at the proposed crossing will be some daily switching between the hours of 3 and 3.30 p.m. The crossing will be one of minor importance, and as there will be no obstructions to the view it

will never be particularly dangerous. The application should be granted subject to the usual conditions.

**ORDER.**

State Highway Commission having applied to the Railroad Commission for permission to construct a state highway crossing over the tracks of the Southern Pacific Company and the Southern Pacific Railroad Company, at Valley Springs, Calaveras County, California, and a public hearing having been held, and it appearing to the commission that this application should be granted subject to certain conditions,

*It is hereby ordered* that permission be and the same hereby is granted the state of California, on relation of the department of engineering, to construct a state highway crossing over the tracks of the Southern Pacific Company and the Southern Pacific Railroad Company, at Valley Springs, Calaveras County, California, at the point and in the manner shown by the map attached to the application; said crossing to be constructed subject to the following conditions, viz:

(1) The entire expense of constructing the crossing shall be borne by applicant, together with its maintenance thereafter, except for the portion between the rails and two (2) feet outside thereof, which shall be maintained by the railroad company.

(2) Said crossing shall be constructed of a width of not less than twenty-five (25) feet, with grades of approach not exceeding four (4) per cent; shall be protected by a suitable crossing sign, and shall in every way be made safe for the passage thereover of vehicles and other road traffic.

(3) The commission reserves the right to make such further orders relative to the location, construction, operation, maintenance and protection of said crossing as to it may seem right and proper, and to revoke its permission if, in its judgment, the public convenience and necessity demand such action.

Dated at San Francisco, California, this twenty-eighth day of December, 1917.

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DECISION No. 4995.

A. MORBIO

vs.

PACIFIC GAS AND ELECTRIC COMPANY.

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Case No. 1092.

*Decided December 28, 1917.*

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Complainant brings into question the present rate of defendant of 5 cents per kilowatt hour for electric automobile charging, and though the evidence shows that defendant is charging a lower rate for such service in other cities than

that at present charged in San Francisco, as the commission is conducting a general investigation of electric rates of defendant in the city named, present proceeding dismissed without prejudice, the matter to be taken up in the general investigation.

*A. Morbio, in propria persona.*

*Chas. P. Cutten, for Defendant.*

BY THE COMMISSION.

#### OPINION.

Mr. A. Morbio, complainant in this case, alleges that Pacific Gas and Electric Company is discriminating unreasonably between localities and between classes of service in the city of San Francisco in granting certain of its consumers a rate of 3 cents per kilowatt hour for electric automobile charging in private garages and 3 cents per kilowatt hour for operating electric ranges, while it charges him and certain similar auto charging consumers a rate of 5 cents per kilowatt hour. Complainant requests that the Railroad Commission order the defendant to remove the discrimination, said removal to date from time complainant first filed his informal complaint with the commission.

Defendant in its answer denies that it is discriminating between classes of service or localities in the city of San Francisco, and further denies that by reason of any facts alleged in the complaint it is acting in violation of section 19 of the Public Utilities Act, which section requires that no public utility shall maintain unreasonable differences in rates between localities or classes of service. Defendant asks that the complaint be dismissed or that if the commission shall determine that said complaint should not be dismissed, that it be consolidated with Case No. 840—*City and County of San Francisco vs. Pacific Gas and Electric Company*—in which case all of the electric rates of Pacific Gas and Electric Company in San Francisco are brought into question.

Hearings in this matter were held before Examiner Encell in San Francisco on August 25 and September 8, 1917. The case was submitted by stipulation upon the filing by Pacific Gas and Electric Company of the contract between it and Mr. C. A. Hutton.

The testimony introduced at the hearing shows that there are certain discrepancies in relation to the charges maintained by the defendant herein for service similar to the one involved herein in different portions of San Francisco and in the Bay regions generally. It is shown in certain instances that the electric energy for auto charging service to private garages was 3 cents per kilowatt hour. The plaintiff herein has been charged the rate of 5 cents per kilowatt hour for auto charging service.

Defendant submitted an exhibit setting forth the auto charging rates for private garages in 42 different cities in the United States of over 40,000 inhabitants. The evidence was submitted to show that the rate of 5 cents per kilowatt hour charged by defendant generally is reasonable. Defendant did not list cities where the regular power or lighting rates applied to auto charging. The rates which are apparently charged in the cities reported, as shown by the exhibit are, in general,  $4\frac{1}{2}$  cents per kilowatt hour or more. Defendant has listed only three western cities, the other 39 being in the Middle West or Eastern states. Defendant submitted no testimony showing that the conditions in these cities are comparable with San Francisco conditions. The rate in the three cities in the western states which defendant reported is 3 cents per kilowatt hour. These cities are San Diego, California; Seattle, Washington; and Portland, Oregon. In its report defendant failed to set forth the rates in Oakland and Berkeley where it serves auto charging installations at the regular power rate of 3 cents per kilowatt hour.

It may be, as a matter of equity, defendant should grant to San Francisco a rate for auto charging not in excess of that which it charges in Berkeley and Oakland, but after investigating all these matters surrounding the rates for auto charging, it seems to us advisable that the matters herein involved be considered by the commission at the time of the hearing in Case 840 before the commission, hereinabove referred to.

For that reason it is our opinion that the within complaint should be dismissed without prejudice.

#### ORDER.

Mr. A. Morbio having filed his complaint in the above-entitled matter alleging discrimination between districts and classes of service in the city of San Francisco as regards auto charging service to private garages, and public hearings having been held, and the matter being submitted and now ready for decision,

*It is hereby ordered* that the complaint be and the same is hereby dismissed without prejudice.

Dated at San Francisco, California, this twenty-eighth day of December, 1917.

## DECISION No. 4996.

IN THE MATTER OF THE APPLICATION OF CORONA GAS AND ELECTRIC LIGHT COMPANY FOR AN ORDER AUTHORIZING IT TO EXECUTE A FIRST MORTGAGE COVERING ITS PROPERTIES IN THE STATE OF CALIFORNIA, AND ALSO FOR AN ORDER AUTHORIZING THE ISSUE, USE AND SALE OF FIRST MORTGAGE BONDS.

Application No. 1988.

*Decided December 28, 1917.*

Original order amended so as to permit applicant to loan \$33,000.00, being proceeds of bonds heretofore authorized for the purpose of reimbursing treasury covering capital expenditures made, the loan to be made to Southern Sierras Power Company to be expended for extensions and betterments only.

BY THE COMMISSION.

**THIRD SUPPLEMENTAL ORDER.**

Whereas the Railroad Commission by Decision No. 3382, dated May 27, 1916 (Vol. 10, Opinions and Orders of the Railroad Commission of California, p. 244), authorized Corona Gas and Electric Light Company to issue \$58,500.00 face value of its first mortgage 6 per cent fifty-year bonds and use \$33,339.05 of the proceeds from the sale of said bonds to reimburse its treasury for moneys actually expended from income for additions, betterments and extensions within three years and ten months prior to the first day of November, 1915; and

Whereas "Condition No. 3" of the order in Decision No. 3382 reads:

"The proceeds from the sale of bonds herein authorized to be issued for the purpose of reimbursing applicant's treasury for moneys expended from income for additions, betterments and extensions shall be held in a special fund by applicant and used only for working capital and to defray the cost of future additions, betterments and extensions properly chargeable to capital account."

And

Whereas applicant now asks the commission to modify the order in Decision No. 3382, dated May 27, 1916, so as to permit Corona Gas and Electric Light Company to loan \$33,000.00 to The Southern Sierras Power Company, said loan to be evidenced by a six-month 6 per cent note; and

Whereas it appears to the commission that said order may properly be modified as requested by applicant herein, provided that The Southern Sierras Power Company will use the \$33,000.00 to finance in part the construction expenditures set forth in the supplemental petition filed herein on December 15, 1917, it being reported that said construction expenditures will exceed \$500,000.00; and good cause appearing,

*It is hereby ordered* that "Condition No. 3" of the order in Decision No. 3382, dated May 27, 1916, be and the same is hereby modified so as to permit Corona Gas and Electric Light Company to loan to The Southern Sierras Power Company \$33,000.00 of the proceeds of bonds authorized to be used to reimburse the treasury of the Corona Gas and Electric Light Company for expenditures from income for additions, betterments and extensions; provided, that The Southern Sierras Power Company will use the \$33,000.00 to pay in part its construction expenditures, to which reference is made in the supplemental petition filed herein on December 15, 1917; and provided, further, that The Southern Sierras Power Company, within thirty days after the expenditure of said \$33,000.00, file with the Railroad Commission a statement showing in detail the purposes for which the \$33,000.00 was expended.

*It is hereby further ordered* that the order in Decision No. 3382, dated May 27, 1916, as amended, shall remain in full force and effect, except as modified by this third supplemental order.

Dated at San Francisco, California, this twenty-eighth day of December, 1917.

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DECISION No. 4997.

IN THE MATTER OF THE APPLICATION OF PACIFIC GAS AND ELECTRIC COMPANY FOR AN ORDER AUTHORIZING IT TO ISSUE GENERAL AND REFUNDING MORTGAGE GOLD BONDS OF THE FACE VALUE OF THREE MILLION DOLLARS.

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Application No. 3384.

*Decided December 31, 1917.*

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Order made permitting applicant to use \$1,491,151.35 of the proceeds of general and refunding bonds heretofore authorized for the purpose of reimbursing its treasury covering a like sum expended for the purpose of acquiring bonds of the Oro Electric companies. Balance of application held in abeyance pending the submission of further data.

*C. P. Cutten*, for Applicant.

*THELEN*, Commissioner.

**OPINION.**

Pacific Gas and Electric Company asks authority to issue its general and refunding mortgage gold bonds of the face value of \$3,000,000.00 and to use the proceeds thereof and also the proceeds from the sale of its general and refunding mortgage gold bonds of the face value of \$2,500,000.00 authorized by Decision No. 3975 made on January 4,



1917, in Application No. 2675, as well as the proceeds from the sale of the unissued first preferred stock authorized by Decision No. 3023, dated January 3, 1916, for the purpose of reimbursing its treasury, for capital expenditures heretofore made and of paying for the construction, completion, extension and improvement of future facilities.

A public hearing herein was held in San Francisco on December 26, 1917.

At this hearing, petitioner was directed to file additional data necessary to enable the Railroad Commission to pass on all the issues herein presented. When this information has been filed, a decision covering all the issues will be rendered. In the mean time, I shall refer herein only to petitioner's request for permission to reimburse its treasury in the sum of \$1,491,151.35 expended by petitioner in the purchase of bonds of Oro Electric Corporation.

In Decision No. 3987, made on January 8, 1917, in Application No. 2407, this commission authorized the so-called Oro corporations to convey their public utility properties to Pacific Gas and Electric Company and authorized Pacific Gas and Electric Company to issue at not less than 90 per cent of face value and accrued interest its general and refunding mortgage bonds dated December 1, 1911, and maturing on January 1, 1942, bearing interest at the rate of 5 per cent per annum, in such amount as may be necessary to realize the sum of \$1,491,151.35 to reimburse the treasury of Pacific Gas and Electric Company in the sum of \$1,491,151.35 expended by said company in the purchase of bonds of Oro Electric Corporation. The order provided that the authority to issue such bonds should apply only to bonds issued on or before June 30, 1917.

Pacific Gas and Electric Company did not avail itself of the authority to issue said bonds and now asks permission, in part, to reimburse its treasury from the proceeds of the sale of its general and refunding mortgage gold bonds of the face value of \$2,500,000.00 authorized by this commission in Decision No. 3975 made on January 4, 1917, in Application No. 2675.

In said Decision No. 3975, this commission authorized Pacific Gas and Electric Company to issue \$2,500,000.00 face value of its general and refunding mortgage 5 per cent gold bonds at not less than 90 per cent of their face value plus accrued interest. The authority to issue said bonds was made subject to the following express condition:

"No part of the proceeds obtained from the sale of said \$2,500,000.00 face value of bonds shall be expended until the commission by supplemental order has defined the purposes for which said proceeds may be expended."

Pacific Gas and Electric Company sold said bonds in January, 1917, at 90.5 of face value, realizing therefrom \$2,262,500.00 in cash. Prior to the filing of the petition herein on December 12, 1917, no request was made by Pacific Gas and Electric Company for any supplemental order specifying the purposes for which the proceeds of said bonds of the face value of \$2,500,000.00 might be expended. The testimony herein shows that on November 30, 1917, petitioner had on hand in cash only \$1,347,517.36 and that the difference between this amount and the sum of \$2,262,500.00, being the sum of \$914,982.64 had been used by petitioner to reimburse its treasury without having secured the supplemental order specified in this commission's said Decision No. 2675.

The presiding commissioner thereupon directed Pacific Gas and Electric Company immediately to restore to its treasury said sum of \$914,982.64 and to hold the entire proceeds from the sale of said bonds, amounting to \$2,262,500.00 in cash, subject to the order of this commission as provided in said Decision No. 3975.

Pacific Gas and Electric Company has now complied with this order. While the failure of the company to apply for a supplemental order constitutes a serious neglect of this commission's order of January 4, 1917, I am satisfied that Pacific Gas and Electric Company did not act for the purpose of violating this commission's order.

Petitioner now asks that it be reimbursed from the proceeds of the sale of \$2,500,000.00 face value of bonds to the extent of the moneys expended by it in the purchase of bonds of Oro Electric Corporation, being the sum of \$1,491,151.35. This purchase was heretofore authorized by this commission, and the reimbursement should be allowed.

The other issues presented by petitioner herein will hereafter be decided in a subsequent order, when petitioner has filed the necessary additional data.

I submit herewith the following form of order:

#### ORDER.

Pacific Gas and Electric Company having made application for an order as specified in the opinion which precedes this order, a public hearing having been held and the Railroad Commission finding that the purposes for which said petitioner desires to use the proceeds from the sale of its general and refunding mortgage gold bonds of the face value of \$2,500,000.00, to the extent to which the use of said proceeds is herein authorized, are not in whole or in part chargeable to operating expenses or to income and that the money to be paid for said purposes is reasonably required therefor,

*It is hereby ordered* that to the extent of \$1,491,151.35 Pacific Gas and Electric Company may use the proceeds from the sale of said

\$2,500,000.00 face value of general and refunding mortgage bonds to reimburse its treasury for the sum of \$1,491,151.35 heretofore expended by it for purchase of bonds of Oro Electric Corporation as authorized by this commission in Decision No. 3987 made on January 8, 1917, in Application No. 2407.

This authorization is subject to the condition that on the twenty-fifth day of the month after such reimbursement has been made, Pacific Gas and Electric Company shall make a verified report to the Railroad Commission showing the use and application of such moneys, in accordance with the Railroad Commission's General Order No. 24, which order, in so far as applicable, is made a part of this order.

*It is further ordered* that no part of the remaining proceeds from the sale of said bonds of the face value of \$2,500,000.00 shall be expended by Pacific Gas and Electric Company until this commission, by supplemental order herein, has defined the purposes for which said proceeds may be expended.

*It is further ordered* that in all other respects the issues presented by the petition herein shall remain in abeyance until petitioner has filed the necessary additional data as directed.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the state of California.

Dated at San Francisco, California, this thirty-first day of December, 1917.

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Decisions Nos. 4998 and 4999, grade crossings; not printed. See end of volume.

DECISION No. 5000.

IN THE MATTER OF THE APPLICATION OF THE MIDWAY GAS COMPANY FOR AN ORDER AUTHORIZING THE PURCHASE BY IT FROM THE SOUTHERN CALIFORNIA GAS COMPANY OF CERTAIN PRIVATE RIGHTS OF WAY AND THE TAKING OVER OF THE PRIVILEGES UNDER THAT CERTAIN ORDINANCE NO. 332, NEW SERIES, TO CONSTRUCT, MAINTAIN AND OPERATE A NATURAL GAS PIPE LINE AND OF THE SOUTHERN CALIFORNIA GAS COMPANY FOR PERMISSION TO ASSIGN AND TRANSFER SUCH RIGHTS OF WAY AND PRIVILEGES.

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Application No. 2023.

*Decided December 31, 1917.*

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It being deemed by the commission to the best interests of all concerned that one utility control the production and transmission systems and another the local distributing systems for natural gas, the Southern California Company is authorized to transfer to the Midway Company, certain rights of way and

franchise privileges covering the construction and maintenance of a natural gas transmission line owned by the Midway company, such rights to be transferred at actual original cost, stated to be the sum of \$2,910.00.

**A. B. Macbeth and A. E. Peat**, for Applicants.

EDGERTON, *Commissioner*.

#### OPINION.

In this application Midway Gas Company and Southern California Gas Company requests the Commission's authority to purchase and sell, respectively, certain private rights of way which the latter company acquired and on which is located a certain natural gas transmission line which was constructed by Southern California Gas Company for the Midway Gas Company and which was paid for and now is the property of the Midway Gas Company, and the rights and privileges under that certain Ordinance No. 332, new series, of the county of Los Angeles, to construct, maintain and operate said natural gas transmission, for the sum of \$2,410.00 to cover cost of rights of way and the sum of \$500.00 to reimburse Southern California Gas Company for legal and other expenses incident to securing a release of said rights of way and franchise privileges from the lien of the Southern California Gas Company's first mortgage.

Under date of May 11, 1915, Southern California Gas Company made a certain contract with the Standard Oil Company for the purchase of natural gas from the Murphy-Coyote fields located near Fullerton. Under date of July 29, 1915, an agreement was entered into between Midway Gas Company and Southern California Gas Company whereby the latter was to construct an 8½-inch transmission main from the fields to a point near Lynwood to connect with the Southern California Gas Company's Long Beach pipe line. The Midway Gas Company agreed to pay all costs for the construction of the line.

The pipe line so constructed is located partly along public highways and was constructed by the Southern California Gas Company under the rights and privileges granted it by the county of Los Angeles under Ordinance No. 332, new series, and partly along private rights of way obtained from the following persons:

Mrs. Frances Gephard  
Harold A. Berryman  
James H. Coke and  
Alice E. Coke  
Thomas N. Ellis  
Roger Weber  
Sacramento Duarte  
John Paddison  
Alfred Belieu

John Dolland  
Marius Meyer  
Jacob Stern  
Jacob Stern and  
M. N. Newmark  
Chas. V. Hall  
F. R. Strong  
Harry B. Clow, trustee  
The city of Whittier

The route above mentioned is located within the county of Los Angeles, state of California, and is particularly described in a pro-

posed memorandum agreement of transfer between the parties filed with this commission under date of January 20, 1916, as follows:

“COMMENCING at the Compressor Station of the Standard Oil Company of California located in the South half of Section 13, Township 3 South, Range 11 West, S. B. B. & M., thence in a Northwesterly direction to a point on the West line of said Section 13 located about six hundred and seventy-eight (678) feet from the Southwest corner of said Section; thence Northerly along said West line about nineteen hundred sixty-two (1962) feet; thence Westerly and at right angles to said West line across Section 14 in the same Range and Township; thence Northerly along the West line of said Section 14 to the dividing line between Sections 10 and 15 in the same Range and Township; thence Westerly and at right angles to the last mentioned course on a substantially straight course and for a distance of about seven and one-quarter (7-1/4) miles to a point in Curtin Road located two hundred and sixty-three (263) feet Northwest, measured along said Road from the intersection of said Road with College Road No. 2; thence on a substantially straight course along Curtin Road and across private right of way to the Easterly end of Downey and Florence Road; thence on and along said last mentioned Road and the Westerly continuation thereof known as Downey and Los Angeles Road to the intersection of the last mentioned Road with Long Beach Boulevard.”

The transfer is in accordance with the policy of the two companies, which are closely allied, that the Midway Gas Company control the production and transmission of natural gas from oil fields to the general transmission and distribution systems of the Southern California Gas Company, the Southern California Gas Company to handle the local transmission and distribution and sale of gas in Los Angeles and vicinity.

I believe, under the conditions of distribution of gas in and about Los Angeles, that it is advisable that one company should control the delivery of gas to the local distributing companies as by this means the division of gas between the local utilities will be made more flexible and handled more advantageously.

Ordinance No. 332, new series, of the county of Los Angeles provides in section 19 thereof

“That said grantee, or its successors or assigns shall not sell, transfer or assign said franchise or any of the rights or privileges granted thereby, except by a duly executed instrument in writing filed in the office of the board of supervisors of the county of Los Angeles \* \* \*.”

Midway Gas Company is now owner of the transmission main for which the rights of way and franchise privileges are requested. These

rights of way are to be transferred at cost to the purchasing company and I recommend that the transfer be approved.

**ORDER.**

Midway Gas Company and Southern California Gas Company having made application to this commission for authority to purchase and sell certain rights of way and franchise rights and privileges necessary in the construction and operation of a certain transmission line owned and operated by Midway Gas Company, and the matter being submitted and now ready for decision,

*It is hereby ordered* as follows:

(a) Southern California Gas Company is hereby authorized to transfer and convey to Midway Gas Company the right, privilege and authority under and by virtue of said franchise by Ordinance No. 332, new series, of the county of Los Angeles, owned by the Southern California Gas Company, to lay and construct on and along every portion of said route or location of said gas transmission main, which route is set forth in the opinion preceding this order, said transmission main together with all necessary renewals, additions and adjuncts and to maintain and operate the same for the purposes as set forth in Exhibit "B" attached to the application and in accordance with the qualifications set forth in said exhibit.

(b) Southern California Gas Company is hereby authorized to transfer and convey to Midway Gas Company those certain private rights of way obtained by it from Mrs. Frances Gephard, Harold A. Berryman, James H. Coke and Alice E. Coke, Thomas N. Ellis, Roger Weber, Sacramento Duarte, John Paddison, Alfred Belieu, John Dolland, Marius Meyer, Jacob Stern, Jacob Stern and M. N. Newmark, Chas. V. Hall, F. R. Strong, Harry B. Clow, trustee, and The City of Whittier, upon which is located the said transmission line of Midway Gas Company.

(c) Midway Gas Company is hereby authorized to pay to Southern California Gas Company for said private rights of way and expenses incurred in the transfer of the same, and those certain privileges herein authorized, the sum of \$2,910.00.

The authority herein made is upon the following conditions:

(1) The authority herein granted shall not be binding in any proceeding upon this commission or any tribunal, court or public body as a finding by this commission of the value of the property and rights to be transferred for any purposes other than those relating to this application.

(2) The authority herein granted shall extend only to such transfers as shall have been executed within ninety days from the date hereof.

(3) Within ten days after any such transfer is executed the grantor in said transfer or conveyance shall report in writing to the commission the facts of such transfer with the date thereof and shall file with the Railroad Commission a copy of such transfer.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the state of California.

Dated at San Francisco, California, this thirty-first day of December, 1917.

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DECISION No. 5001.

IN THE MATTER OF THE APPLICATION OF E. B. POPE FOR CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY TO OPERATE AUTOMOBILE STAGE SERVICE BETWEEN ADIN, CALIFORNIA, AND ALTURAS, CALIFORNIA.

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Application No. 3400.

*Decided December 31, 1917.*

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BY THE COMMISSION.

**ORDER.**

E. B. Pope having applied for a certificate declaring that public convenience and necessity require the operation by him of an automobile stage service as a common carrier of passengers, packages and baggage between Adin and Alturas, Modoc County, and the commission being duly advised and believing that this is not a case in which a public hearing is necessary, and that the application should be granted,

*It is hereby declared* that public convenience and necessity require the operation by E. B. Pope of an automobile stage service as a common carrier of passengers, packages and baggage between Adin and Alturas, Modoc County; provided, that this declaration shall not become effective until said Pope has procured from the Railroad Commission a supplemental order herein reciting that said Pope has filed herein certified copies of permits from the county of Modoc and the town of Alturas as provided by section 3 of chapter 213, laws of 1917; and provided, further, that the rights and privileges herein granted shall not be assigned or transferred unless the written consent of the Railroad Commission to such assignment or transfer has first been secured.

*It is hereby ordered* that no vehicle may be operated under this certificate unless such vehicle is owned by the applicant herein or is leased by such applicant under a contract or agreement on a basis satisfactory to the Railroad Commission.

Dated at San Francisco, California, this thirty-first day of December, 1917.

## DECISION No. 5002.

IN THE MATTER OF THE APPLICATION OF MOUNT TAMALPAIS AND  
MUIR WOODS RAILWAY FOR AN ORDER AUTHORIZING IT TO  
ISSUE NOTE.

Application No. 3351.

IN THE MATTER OF THE APPLICATION OF MOUNT TAMALPAIS AND  
MUIR WOODS RAILWAY FOR AN ORDER AUTHORIZING IT TO  
ISSUE NOTES.

Application No. 3352.

*Decided December 31, 1917.*

Applicant granted permission to issue to the First National Bank of San Francisco its 6 per cent two-year promissory note of the face value of \$10,000.00, and to the Union Trust Company of San Francisco its 6 per cent promissory notes of an aggregate face value of \$22,500.00 and to issue and pledge \$18,500.00 face value of its bonds as security for \$15,000.00 face value of the latter notes, all of such notes to be issued at full face value in renewal of outstanding obligations.

*Thomas, Beedy & Lanagan, by C. F. Laumister, for Applicant.*

BY THE COMMISSION.

## OPINION.

In Application No. 3351, Mount Tamalpais and Muir Woods Railway applies for authority to issue a 6 per cent \$10,000.00 note to the First National Bank of San Francisco. In Application No. 3352, Mount Tamalpais and Muir Woods Railway applies for authority to issue its 6 per cent notes to Union Trust Company of San Francisco in the aggregate face amount of \$22,500.00. It also asks authority to secure the payment of \$15,000.00 of notes to be issued to the Union Trust Company of San Francisco by pledging \$18,500.00 face value of bonds.

A public hearing in the above-entitled applications was held in San Francisco by Examiner Westover. By stipulation, both applications were consolidated for hearing and decision.

In "Exhibit No. 1," the petitioner reports assets and liabilities as of November 30, 1917, as follows:

	<i>Assets.</i>
<b>Investments:</b>	
Road and equipment.....	\$449,434 22
Additions and betterments.....	3,464 38
First mortgage bonds owned.....	19,500 00
	<hr/> \$472,398 60
<b>Current assets:</b>	
Northwestern Pacific Railway.....	\$1,031 60
Due from agents, etc.....	1,296 58
Cash .....	3,176 54
	<hr/> 5,504 72



<b>Materials and supplies:</b>		
Tavern and inn supplies.....	\$3,016 60	
Railway stock .....	13,045 85	
Office furniture and fixtures, etc.....	1,536 31	
		17,598 76
<b>Deferred debit items:</b>		
Insurance paid in advance.....	\$845 08	
Tavern repairs and renewals.....	2,867 31	
Muir Inn repairs and renewals.....	402 01	
		4,114 40
<b>Total assets .....</b>		<b>\$499,616 48</b>
<i>Liabilities.</i>		
Capital stock .....		\$318,000 00
First mortgage 5 per cent gold bonds.....	\$100,000 00	
Less sinking fund redemptions.....	38,000 00	
		62,000 00
<b>Current liabilities:</b>		
Loans and bills payable.....	\$35,000 00	
Audited vouchers .....	6,106 31	
Sundry items .....	425 41	
		41,531 72
<b>Deferred credit items:</b>		
Unmatured interest .....	\$354 20	
Provident fund .....	2,740 24	
Attorneys fees .....	525 00	
Taxes .....	1,144 80	
		4,764 24
Accrued depreciations .....		14,983 83
Surplus .....		58,336 69
<b>Total liabilities .....</b>		<b>\$499,616 48</b>

It will be noted that on November 30, 1917, the railway reported an unappropriated surplus of \$58,336.69. On June 30, 1914, its surplus is reported at \$2,218.42. The increase in the surplus account is due primarily to the increased earnings during 1915, the Exposition year. After paying operating expenses, taxes and interest, the company for the year ending June 30, 1915, reported surplus earnings at \$31,400.28, while for the year ending June 30, 1916, its surplus earnings amounted to \$60,742.36. For the year ending December 31, 1916, the company reported a loss of \$9,944.84, while for the eleven months ending November 30, 1917, it reports a net gain of \$12,840.64. In arriving at the net gain for the current year, the company deducts from its earnings accruals for taxes amounting to \$1,856.40. The state tax on gross revenue earned during the eleven months period will be about \$3,000.00. Therefore, about \$1,143.60 should be deducted from surplus.

During 1915, the company paid \$14,310.00 in dividends and a like amount in 1916. The testimony shows that no dividends were paid during 1917. The surplus earnings of the company have been used to pay current indebtedness incurred prior to June 30, 1916, for improvements and general corporate purposes.

Applicant reports that it is indebted to the First National Bank of San Francisco in the sum of \$12,500.00, said indebtedness being evidenced by a 6 per cent \$5,000.00 note, dated October 27, 1916; a 6 per cent \$5,000.00 note dated February 28, 1916, and a 6 per cent \$2,500.00 note dated December 6, 1916. Arrangements have been made whereby applicant will pay \$2,500.00 of said notes. The balance it proposes to pay through the issue of a new \$10,000.00 note.

Applicant reports that its indebtedness to the Union Trust Company of San Francisco in the sum of \$25,000.00 is represented by a \$7,500.00 5 per cent note dated December 7, 1916; a \$7,500.00 5 per cent note dated January 3, 1917; a \$5,000.00 5 per cent note dated February 2, 1917, and a \$5,000.00 5 per cent note dated February 27, 1917. The payment of the first two notes is secured by the deposit of \$18,500.00 of bonds authorized to be issued by Decision No. 3966, dated December 29, 1916. The company proposes to pay \$2,500.00 on the notes due to the Union Trust Company of San Francisco and pay the balance through the issue of new notes. It asks that it be permitted to pay 6 per cent interest on the new notes and secure the payment of \$15,000.00 by pledging the \$18,500.00 of bonds now pledged.

#### ORDER.

Mount Tamalpais and Muir Woods Railway having applied to the Railroad Commission for authority to issue a \$10,000.00 note to the First National Bank of San Francisco and for authority to issue notes aggregating \$22,500.00 to the Union Trust Company of San Francisco and to pledge \$18,500.00 of bonds, and a public hearing having been held,

*It is hereby ordered* that Mount Tamalpais and Muir Woods Railway be and it is hereby granted authority to issue to the First National Bank of San Francisco its 6 per cent two-year \$10,000.00 note; to the Union Trust Company of San Francisco its 6 per cent two-year notes in the aggregate face value of \$22,500.00, and to issue \$18,500.00 of bonds and pledge said bonds to secure the payment of \$15,000.00 face value of notes authorized to be issued to Union Trust Company of San Francisco.

The authority herein granted is granted upon the following conditions and not otherwise:

1. The notes herein authorized to be issued shall be issued by applicant for not less than the face value thereof. The bonds herein authorized to be pledged shall be pledged at such ratio that at no time shall the face value of the bonds exceed by more than 25 per cent the face value of the note or notes secured by said bonds, provided that when the note or notes secured by said bonds have been paid, the pledged bonds shall be returned to applicant's treasury and not thereafter issued without a further order from this commission.

2. The proceeds of the \$10,000.00 note to be issued to the First National Bank of San Francisco shall be used for the payment in part of the following notes:

Note dated October 27, 1916, at 6 per cent, payable ninety days after date .....	\$5,000 00
Note dated November 28, 1916, at 6 per cent, payable ninety days after date .....	5,000 00
Note dated December 6, 1916, at 6 per cent, payable ninety days after date .....	2,500 00

3. The proceeds obtained from the issue of \$22,500.00 of notes to the Union Trust Company of San Francisco shall be used to pay in part the following notes:

Original note dated December 7, 1916, at 5 per cent, payable ninety days after date .....	\$7,500 00
Original note, date January 3, 1917, at 5 per cent, payable ninety days after date .....	7,500 00
Original note, date February 2, 1917, at 5 per cent, payable ninety days after date .....	5,000 00
Original note, date February 27, 1917, at 5 per cent, payable ninety days after date .....	5,000 00

4. Applicant may, if it so desires, issue notes for a period of less than two years and renew said notes from time to time, provided that the combined terms of the notes herein authorized and those issued in renewal thereof shall not exceed two years.

5. Mount Tamalpais and Muir Woods Railway shall keep separate, true and accurate accounts relative to the issue of notes and pledge of bonds herein authorized, and on or before the twenty-fifth day of each month shall make verified reports to the Railroad Commission relative to the issue of said notes and pledge of said bonds, all in accordance with this commission's General Order No. 24, which order in so far as applicable, is made a part of this order.

6. The authority herein granted to issue notes and pledge bonds is conditioned upon the payment by applicant of the fee prescribed in the Public Utilities Act.

7. The authority herein granted to issue notes and pledge bonds shall apply only to such notes and bonds as may be issued and pledged on or before October 1, 1919.

Dated at San Francisco, California, this thirty-first day of December, 1917.

## DECISION No. 5003.

IN THE MATTER OF THE APPLICATION OF F. W. GOMPH, AGENT, FOR AUTHORITY TO AMEND PACIFIC FREIGHT TARIFF BUREAU'S LOCAL AND JOINT TARIFF NO. 42-B, C. R. C. NO. 105 AND JOINT FREIGHT TARIFF NO. 120-B, C. R. C. NO. 160, ALSO LOS ANGELES AND SALT LAKE RAILROAD COMPANY'S TARIFF NO. 133-C, C. R. C. NO. 66; PACIFIC ELECTRIC RAILWAY'S TARIFF NO. 120-C, C. R. C. NO. 187, AND SOUTHERN PACIFIC COMPANY'S TARIFF NO. 584-A, C. R. C. NO. 1670, BY CLEARLY SETTING FORTH THAT THE RATES REFERRED TO WILL APPLY ONLY ON SHIPMENTS FROM THE PORTS NAMED OR TO THE PORTS NAMED WHEN DELIVERED BY OR TO OCEAN CARRIERS AND INCIDENT TO TRANSPORTATION ON THE HIGH SEAS TO POINTS BEYOND SUCH PORTS.

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Application No. 3332.

*Decided December 31, 1917.*

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In connection with a petition of a common carrier to modify or change a rate the commission can not be influenced in its determination of the reasonableness of the proposed changes by the fact that certain shippers of the commodity affected have entered into contracts where a change in the rate paid would affect their profits on the transaction.

As the commission will not permit a carrier to so interpret a tariff that the shipper is obliged to pay a higher rate on the commodity moved than the regularly established rate for such service, neither can it permit a shipper to take advantage of a rate, clearly intended for through traffic, making it apply on local shipments.

The items in the tariffs proposed to be amended clearly indicate that they were published to cover proportional rates in connection with common carriers by water and that they have no bearing whatever on local rates within the territory. Petition to change tariffs as applied for granted.

*E. W. Camp and A. S. Halsted, for Applicant.*

*Bishop & Bahler, by H. M. Wade, for California Portland Cement Company, Protestant.*

LOVELAND, *Commissioner.*

**OPINION.**

This is an application filed by F. W. Gomph, agent, on behalf of carriers parties to Pacific Freight Tariff Bureau's Local and Joint Freight Tariff No. 42-B, C. R. C. No. 105, and Joint Freight Tariff No. 120-B, C. R. C. No. 160; also in connection with Los Angeles and Salt Lake Railroad Tariff No. 133-C, C. R. C. No. 66, Pacific Electric Railway Company's Tariff No. 120, C. R. C. No. 187 and Southern Pacific Company's Tariff No. 584-A, C. R. C. No. 1670, for permission to change the wording of certain items in these tariffs covering transshipment of freight received from or delivered to water carriers.

The primary purpose of the application will be illustrated by quoting from the first named tariff—Pacific Freight Tariff Bureau's Tariff No. 42-B, C. R. C. No. 105. Item No. 5 thereof now reads:

“Rates named herein apply only on freight received from or delivered to water carriers at the ports named in each individual item.”

It is proposed to amend the item to read as follows:

“Rates named herein *from* the ports named apply only on freight transported on the high seas from points beyond the port and delivered by the ocean carrier to the rail carriers at the ports named, subject to such further restrictions as may be provided in connection with individual rates.

“Rates named herein *to* the ports named apply only on freight delivered to the ocean carrier for transportation on the high seas to points beyond the port, subject to such further restrictions as may be provided in connection with individual rates.”

The reasons for desiring to amend tariffs as set forth in the application are, briefly, that certain rates were published on cement to place the cement factories in southern California on a parity with the factories in northern California at tidewater points. Otherwise stated, the rate from the northern California producing points—Davenport, Cement, Cowell and Napa Junction to San Francisco and bay points is 75 cents per ton, which would give the northern California mills a decided advantage at tidewater if a similar transshipment rate were not made for southern California producing points—Crestmore, Colton and Riverside to the ports in that part of the state.

It is alleged that the rate of 75 cents per ton on cement to San Diego and other southern ports was intended for use only in connection with shipments destined to points reached by ocean-going vessels, either in coastwise or foreign trade. Applicant maintains that the rate has never been used in connection with consignments for local consumption and the proposed changes bring about no increases, being made simply to clarify the tariffs and remove a present ambiguity.

It is further alleged that an attempt was recently made to apply the 75 cent rate to cement moving to San Diego, for consumption in the construction of a dam at Otay, located a few miles from Chula Vista on the San Diego Bay, the intention of the shippers being to load the cement on barges at San Diego, move it to a point near Chula Vista and haul from that point by motor truck to final destination.

Applicant insists that under a reasonable interpretation of the language used in these tariffs the proportional rates could not be made to apply on tonnage destined to the ports or to local points within the ports by the mere subterfuge of placing the freight on some kind of a

water craft and moving it short distances within the confines of the particular harbor.

The granting of the application was protested by the California Portland Cement Company, who declared it had entered into a contract to furnish cement for the construction of a reservoir at Otay and had figured upon the 75 cent rate, expecting to move the tonnage by water carrier from the wharf at San Diego to a convenient landing point on the San Diego Bay opposite the dam site.

The point made by protestant that it had entered into a contract and figured on the transshipment rate and that, therefore, no changes should be allowed in these tariffs until the contract had been fulfilled, can not be admitted as controlling. If carriers proposed reductions in rates this protestant certainly would not contend that the rates must ordinarily not be changed because its profits under the contract would be increased. The reasonableness of a rate, rule or regulation must be determined independently of contracts made by shippers.

The evidence shows that no cement has ever moved to San Diego at the 75 cent per ton rate and was there delivered to water carriers for local consumption at that port; it is therefore not necessary to decide what the legal charge would have been had such shipments moved, nor what the lawful rates are under the tariffs as now constructed.

The items in the tariffs to be amended clearly indicate that same were published to cover proportional rates in connection with a common carrier by water and, from their very nature and history, are nothing but factors in a through rate. They are part of a rate structure created by competitive conditions from producing points to a common market, have no particular bearing upon local rates within the territory and, because of the difference in conditions, can not be said to be either preferential or discriminatory against the same commodities moving to the local markets.

The issues in Case No. 362, *Golden Gate Brick Company vs. Western Pacific Railway Company*, decided by Commissioner Eshleman April 12, 1913 (Vol. 2, Opinions and Orders of the Railroad Commission of California, page 607), were similar to those in the case at bar, being based on a tariff interpretation, where he held:

"I am not in sympathy with the practice of carriers in putting tortured construction upon a tariff provision so that the same may yield them more revenue, and I certainly am no more in sympathy with the same practice when indulged in by shippers with a view to securing less rates. Tariffs should be clear and unambiguous, and when there is an ambiguity by reason of which a shipper has suffered, the carrier being responsible for the ambiguity should certainly be required to sustain the loss, but where, as here, the shipper shows no loss whatsoever and the construction sought is

contrary to the plain intent of the tariff, I think such shipper should have no standing before this commission."

In the light of this record, which has been carefully considered, I see no reason for deviating from the findings and conclusions announced in the Golden Gate Brick Company's case, No. 362, *supra*, and I find that the changes proposed in the tariffs covered by this application are reasonable and that the application should be granted in order that the positive intent of the rates may be set forth in unmistakable terms.

I submit the following order:

**ORDER.**

Application having been made by F. W. Gomph, agent, on behalf of carriers parties to Pacific Freight Tariff Bureau Tariffs C. R. C. Nos. 105 and 160, and also in connection with Los Angeles & Salt Lake Railroad Tariff No. 133-C, C. R. C. No. 66, Pacific Electric Railway Tariff No. 120, C. R. C. No. 187, and Southern Pacific Company's Tariff No. 584-A, C. R. C. No. 1670 to make certain changes in said tariffs, and a public hearing having been held,

*It is hereby ordered* that the application of the carriers to make the changes in the tariffs, as outlined in the application filed with this commission, be and the same is hereby authorized.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the state of California.

Dated at San Francisco, California, this thirty-first day of December, 1917.

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DECISION No. 5004.

**IN THE MATTER OF THE APPLICATION OF DUNFIELD TRUCK LINE  
FOR CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY TO  
OPERATE FREIGHT TRUCK SERVICE BETWEEN SACRAMENTO  
AND AUBURN AND INTERMEDIATE POINTS.**

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Application No. 3395.

*Decided December 31, 1917.*

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BY THE COMMISSION.

**ORDER.**

J. D. Dunfield, owner of Dunfield Truck Line, having applied for a certificate declaring that public convenience and necessity require the operation by him of an automobile freight transportation service between Sacramento and Auburn and intermediate points, and the com-

mission being duly advised and believing that this is not a case in which a public hearing is necessary, and that the application should be granted,

*It is hereby declared* that public convenience and necessity require the operation by J. D. Dunfield of an automobile freight transportation service between Sacramento and Auburn and intermediate points; provided, that this declaration shall not become effective until said Dunfield has procured from the Railroad Commission a supplemental order herein reciting that said Dunfield has filed herein certified copies of permits from the counties of Sacramento and Placer and the cities of Sacramento, Auburn, Rocklin, and Roseville, as provided by section 2 of chapter 213, laws of 1917; and provided, further, that the rights and privileges herein granted shall not be assigned or transferred unless the written consent of the Railroad Commission to such assignment has first been secured.

*It is hereby ordered* that no vehicle may be operated under this certificate unless such vehicle is owned by the applicant herein or is leased by such applicant under a contract or agreement on a basis satisfactory to the Railroad Commission.

Dated at San Francisco, California, this thirty-first day of December, 1917.





## GRADE CROSSINGS.

Decision No.	Application No.	Applicant	Location	Action	Date
4913	3166	Visalia Electric Railway Co.	Tulare Co.	Granted	Sept. 4, 1917
4914	3197	A. T. and Santa Fe Railway	Anaheim	Granted	Sept. 4, 1917
4915	3198	Southern Pacific Co.	Yolo Co.	Granted	Sept. 4, 1917
4916	3169	Southern Pacific Co.	Los Angeles	Granted	Sept. 4, 1917
4941	3187	Southern Pacific Co.	Orange Co.	Granted	Sept. 14, 1917
4942	3196	A. T. and Santa Fe Railway Co.	Los Angeles Co.	Granted	Sept. 14, 1917
4943	3189	Southern Pacific Co.	Oakland	Granted	Sept. 14, 1917
4945	3182	Southern Pacific Co.	Porterville	Granted	Sept. 14, 1917
4956	3212	Southern Pacific Co.	San Mateo	Granted	Sept. 21, 1917
4957	3095	S. D. and S. E. Railway Co.	San Diego Co.	Dismissed	Sept. 24, 1917
4970	3223	A. T. and Santa Fe Railway Co.	San Diego Co.	Granted	Sept. 23, 1917
4971	3288	Southern Pacific Co.	Berkeley	Granted	Sept. 28, 1917
4972	3224	Southern Pacific Co.	Colusa Co.	Granted	Sept. 28, 1917
4973	3232	Tidewater and Southern	Merced Co.	Granted	Oct. 3, 1917
4719	3240	Southern Pacific Co.	Kern Co.	Granted	Oct. 5, 1917
4720	3238	Southern Pacific Co.	San Mateo Co.	Granted	Oct. 5, 1917
4721	3239	Southern Pacific Co.	Stockton	Granted	Oct. 5, 1917
4722	3068	A. T. and Santa Fe Railway Co.	Los Angeles Co.	Granted	Oct. 5, 1917
4727	2578	County of Fresno	Fresno County	Granted	Oct. 6, 1917
4728	3252	A. T. and Santa Fe Railway Co.	Tulare Co.	Granted	Oct. 6, 1917
4742	3075	Southern Pacific Co.	San Bernardino	Dismissed	Oct. 10, 1917
4746	3243	Southern Pacific Co.	Fresno Co.	Granted	Oct. 11, 1917
4758	2947	Southern Pacific Co.	Tracy	Dismissed	Oct. 16, 1917
4759	3262	Southern Pacific Co.	San Joaquin Co.	Granted	Oct. 16, 1917
4760	3261	Department of Engineering of Cal.	Ventura Co.	Granted	Oct. 16, 1917
4761	3275	A. T. and Santa Fe Railway Co.	Santa Fe Springs	Granted	Oct. 16, 1917
4773	3115	San Joaquin County	San Joaquin Co.	Granted	Oct. 18, 1917
4788	3228	Peninsular Railway Co.	Palo Alto	Granted	Oct. 23, 1917
4789	3279	Southern Pacific Co.	San Francisco	Granted	Oct. 23, 1917
4790	3283	Pacific Electric Railway Co.	Los Angeles	Granted	Oct. 23, 1917
4792	3285	Pacific Electric Railway Co.	Los Angeles	Granted	Oct. 26, 1917
4793	3285	Southern Pacific Co.	San Francisco	Granted	Oct. 26, 1917
4803	3241	State of California	Ventura Co.	Granted	Oct. 31, 1917
4803	3255	Tidewater and Southern Railway	San Joaquin Co.	Granted	Oct. 31, 1917
4811	2719	S. D. and S. E. Railway Co.	San Diego Co.	Granted	Nov. 2, 1917
4812	3247	Pacific Electric Co.	Orange Co.	Granted	Nov. 2, 1917
4825	3290	Cal. and Eastern and Northern	Napa Co.	Granted	Nov. 8, 1917
4836	1810	City of Richmond	Richmond	Dismissed	Nov. 13, 1917
4845	3236	A. T. and Santa Fe Railway Co.	Los Angeles	Granted	Nov. 24, 1917
4872	3342	Southern Pacific Co.	Los Angeles	Granted	Nov. 24, 1917
4913	3350	A. T. and Santa Fe Railway Co.	Highgrove	Granted	Nov. 30, 1917
4914	3356	A. T. and Santa Fe Railway Co.	Emeryville	Granted	Nov. 30, 1917
4922	3345	Fresno Interurban Railway Co.	Fresno Co.	Granted	Dec. 6, 1917
4933	3332	Southern Pacific Co.	Dimuba	Granted	Dec. 6, 1917
4934	3367	L. A. and S. L. Railway Co.	Los Angeles	Granted	Dec. 6, 1917
4941	3344	San Mateo County	Farrallone	Granted	Dec. 8, 1917
4943	3210	County of Sacramento	Carpenter	Granted	Dec. 13, 1917
4944	3884	Southern Pacific Co.	Merced	Granted	Dec. 13, 1917
4945	3885	Southern Pacific Co.	Modesto	Granted	Dec. 14, 1917
4977		Decision number not used.			
4998	3338	Southern Pacific Co.	Hollister	Granted	Dec. 31, 1917
4999	3399	Southern Pacific Co.	Stockton	Granted	Dec. 31, 1917



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